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extradition of Lamirande
from Canada.

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RETURN

RESPECTING THE

EXTRADITION OF LAMIRANDE

FROM

CANADA.

Printed by Order of the House of Commons.



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RETURN

To an Address of the House of Commons, dated 15th November 1867;
for copies of all documents in relation to the Extradition of Lamirande.

By Command.

HECTOR L. LANGEVIN,
Secretary of State.

DEPARTMENT OF THE SECRETARY OF STATE,
Ottawa, 11th March, 1868.

PROVINCE OF CANADA, } To the Right Honorable Charles Stanley, Viscount Monck
District of Montreal. } Baron Monck of Ballytramon, in the County of Wexford,
Governor General of British North America, &c., &c., and Captain General and
Governor in Chief in and over the Provinces of Canada, Nova Scotia, New Brunswick,
and the Island of Prince Edward, and Vice Admiral of the same, &c., &c.

The Petition of Félix Gastier, arrested under the name of Ernest S. Lamirande, now detained in the common jail of the District of Montreal, respectfully represents :

That on Wednesday, the first August instant, your petitioner was arrested at Laprairie by the police of Montreal, without any written warrant, at the request, it is said, of some representatives of the French Government, and, as the Petitioner has been informed, upon the charge of embezzling money belonging to the Bank of France where the said pretended Lamirande was cashier, and the Petitioner also understands that the said representatives of the French Government are about to apply for a writ of Extradition, in order to have him, the Petitioner, sent back to France.

That as the offence styled "embezzlement" with which the said Petitioner is charged is not mentioned in the treaty between England and France, if any such treaty is still in force, and does yet exist between the two countries, and as therefore it is impossible for them to obtain his extradition, they have resolved upon employing subornation, force and violence, unlawfully and without any right, to kidnap the Petitioner, and without any authority to send him to the United States or France. The Petitioner has come to that conclusion from the fact that the Police Officers who arrested the Petitioner have been offered several thousand dollars, if they would kidnap him and bring him to the United States, which the said Police Officers, in the full sense of their duty, sternly refused to do ; and also, from the fact that the parties directing the prosecution against the Petitioner have boasted that they would have the Petitioner anyhow, whether lawfully or unlawfully, that they were bound to have him, and that they would have him, no matter by what means.

Upon such a state of facts, the Petitioner, knowing how jealous Your Excellency is of the honor of England, here appeals to Your Excellency in order that in this case, due precautions be ordered to be taken, so that no unlawful act be committed and that the law be strictly observed and impartially administered.

And your Petitioner, as in duty bound, will ever pray.

Montreal, August 3rd, 1866.

For the Petitioner,

DOUTRE & DOUTRE,
Attorneys.

PROVINCE OF CANADA, } To His Excellency the Right Honorable Charles Stanley,
District of Montreal. } Viscount Monck, Governor General of British North America,
and Captain General and Governor in Chief of the Provinces of Canada, New Brunswick, Nova Scotia and Prince Edward Island, &c., &c.

The Petition of Ernest Sureau Lamirande, at present confined in the Common Jail of the District of Montreal, respectfully sheweth:

That your Petitioner has been confined in the said jail since the 1st instant, in virtue of an order issued under the signature of Wm. H. Bréhaut, Esq., Police Magistrate, in which order it is stated that the said Wm. H. Bréhaut, Esq., issued the said order to conform to a warrant issued under the signature of Your Excellency, from whom it would appear that the extradition of your Petitioner has been solicited by some person claiming to act in the name of the Government of the Emperor of the French, upon the pretext of your Petitioner's having committed in France the crime of forgery.

That among other reasons, the enumeration whereof would be superfluous here, your Petitioner cannot be surrendered:

1. Because the Treaty signed at London on the 13th February, 1843, between England and France had ceased to exist from and after the fourth day of June last, long before the arrest of your Petitioner, in view of the fact that in conformity with a provision of the said Treaty, the French Government signified to the English Government its desire to put an end to it six months before the fourth day of June last.

2. Because it was proved before the said Wm. H. Bréhaut, Esq., that the only person who solicited and demanded the extradition of the Prisoner was M. Abel Frédéric Gautier, Consul General of France, residing at Quebec, who, from his own avowal, does not hold any position as, and does not exercise any of the functions of a diplomatic agent of the French Government, and because, according to the said Treaty, the extradition of the Petitioner could not be demanded by any person other than a diplomatic agent of the Government of the Emperor of the French.

3. Because, according to section 3 of the law passed by the Imperial Parliament (6 and 7 Victoria, ch. 75) to organize the execution of the said Treaty, no Justice of the Peace or Magistrate could, notwithstanding the issue of your Excellency's warrant, order the apprehension of your Petitioner, unless proof were adduced before him, under oath, that the party proceeding for the extradition of your Petitioner, was the bearer of a warrant of arrest, or other judicial document equivalent thereto, issued by a judge or by competent authority in France, authenticated in such way that such warrant of arrest or equivalent document would justify the arrest of the Petitioner, if he were in France, and because your Petitioner was apprehended and is still detained, without any such warrant of arrest or other equivalent judicial document having ever been in the possession of the party requiring the said extradition.

4. That by the same law (6 and 7 Vic., c. 75.) it is further stipulated that to allow of the ordering of the extradition, the crime whereof your Petitioner is accused must be clearly defined in a warrant of arrest, or other equivalent judicial document issued in France, and because no such warrant of arrest having been submitted to the said Wm. H. Bréhaut, Esq., the latter could not judge of the nature of the offence of which the prisoner is accused.

5. Because it is enacted by the same law, that to justify the Justice of the Peace, or Magistrate in committing your Petitioner, sufficient proof shall be adduced before him to justify the apprehension and committal of your Petitioner, if he had committed the crime

of which he is accused within the limits of the Dominions of Her Majesty the Sovereign of Great Britain, and besides the ordinary method of proof resulting from the depositions of witnesses having personal cognizance of the facts, the said law admits as proof depositions made in France, and certified by the judge by whom shall be issued the French warrant for the arrest of the accused. And your Petitioner maintains that no witness, having personal knowledge of the facts was heard before the said Wm. H. Bréhaut, and that no deposition, sworn to and certified as required by the said law was submitted to the said W. H. Bréhaut, Esq.

6. Because, granting that the procedure and the formalities required by the said law had been followed and complied with, which your Petitioner denies, the facts irregularly brought forward before the said Wm. H. Bréhaut could not maintain an accusation of forgery, either according to the laws of France, or according to those of Great Britain, or according to those of Canada.

7. Because those who solicit the extradition of your Petitioner, not being able fairly to make use of the aforesaid treaty to convey your Petitioner back to France, in consequence of its not covering the offence which your Petitioner would have committed if the facts set forth in the accusation were true, they endeavor to make improper and unfair use of the said treaty by giving or striving to give to the facts brought against your Petitioner the character of forgery, whereas the whole of the said facts could amount to no more than the offence designated in this country by the term embezzlement.

8. Because attempts thus to abuse international agreements, and especially the treaty in question have invariably been condemned and baffled by the highest judicial authorities of Great Britain, as is shown by a decision recently rendered in England, by His Honor Chief Justice Cockburn, assisted by two other justices of the Court, *in re Windsor* (10 Part II, Cox, Criminal Cases, p. 118).

9. Because, notwithstanding all that is hereinbefore set forth, your Petitioner has reason to believe that not only will the committal of your Petitioner be arbitrarily ordered in violation of the law, but that attempts will be made to surprise Your Excellency's conscience and good faith in order to obtain an order of extradition with such precipitation that your petitioner would be deprived of the opportunity of submitting his case for the consideration of a Superior Court, by means of a writ of *habeas corpus*.

Wherefore your Petitioner prays Your Excellency to take the foregoing facts into your serious consideration in case the warrant of committal should be signified to Your Excellency, with the view of obtaining from Your Excellency the order to surrender your Petitioner to the French Government; and in such case your Petitioner prays that Your Excellency may be pleased to give time and opportunity for the submitting of the facts and the law of his case to a Court or Judge competent to decide the suit in a satisfactory manner, in support of both the dignity of the Government of Her Majesty the Queen of Great Britain and of this Colony, and of the interests of your Petitioner.

And your Petitioner will ever pray.

Montreal, 15th August, 1866.

DOUTRE & DAOUST,
Advocates for the Petitioner.

QUEBEC, 18th July, 1866.

SIR,—I have the honor to inclose to you herewith an affidavit made before Mr. Justice Taschereau, one of the Judges of the Superior Court, at Quebec, by Mr. Edme Justin Mélin, *Inspecteur Principal de Police* at Paris, with the view of obtaining the apprehension and subsequent extradition of one Ernest Sureau Lamirande, Cashier of the Branch of the Bank of France, at Poitiers, Department of Haute Vienne, in the French Empire, who has been guilty not only of a theft of seven hundred thousand francs to the prejudice of that branch of the Bank of France at Poitiers, but also of the crime of forgery in writing, by falsifying his books and his balance sheet, and thus causing to appear as present in his safe the stolen sum of seven hundred thousand francs, a crime included in the provisions of the extradition treaty entered into between France and England, in February, 1843, a portion whereof I here transcribe:

“By a convention between Her Majesty the Queen of Great Britain and Ireland and the then Sovereign of France, signed at London on the 13th of February, 1843, the

ratifications whereof were exchanged at London, on the 13th day of March, in the same year, it was agreed that the high contracting parties should, on requisition made in their name through the medium of their respective agents, deliver up to justice persons who being accused of the crimes of murder, forgery or fraudulent bankruptcy committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other."

"In order to carry the convention into effect, the British Parliament, on the 22nd of August, 1843, passed the Act 6 and 7 Victoria, c. 75, in which after reciting the convention, it is enacted that in case requisition be made pursuant to the convention to deliver up to justice any person who, being accused of having committed, after the ratification of the convention, any of the above crimes, within the territories and jurisdiction of His Majesty the Emperor of the French, shall be found within the dominions of Her Majesty, it shall be lawful for one of Her Majesty's Principal Secretaries of State, or in Ireland for the Chief Secretary of the Lord Lieutenant of Ireland, and in any of Her Majesty's Colonies or Possessions abroad for the Officer administering the Government of any such Colony or Possessions, by warrant under his hand and seal, to signify that such requisition has been so made, and to require all Justices of the Peace and other Magistrates and Officers of Justice, within their several jurisdictions, to govern themselves accordingly and to aid in apprehending the persons so accused, and committing such persons to gaol for the purpose of being delivered up to Justice according to the provisions of the said convention."

"It shall be lawful for one of Her Majesty's Principal Secretaries of State, or in Ireland, for the Chief Secretary of the Lord Lieutenant of Ireland, and in any of Her Majesty's Colonies or Possessions abroad, for the Officer administering the Government of any such Colony or Possession, by warrant, &c., to deliver up offenders to the authorities of France."

I therefore take the liberty, Sir, of requesting you to be pleased to apply to His Excellency the Governor General, in virtue of the powers conferred upon him by the aforesaid convention, for the necessary warrant for the apprehension and subsequent extradition of the before-mentioned Ernest Sureau Lamirande.

I shall be obliged if you will cause the warrant to be sent to me at the earliest possible period.

I consider it expedient to enclose herewith the warrant of arrest issued by the civil tribunal of Poitiers, and duly legalized by Her Britannic Majesty's Consul at Paris. I have to request that you will be pleased to return me this document with the Governor General's warrant.

I take this opportunity, Sir, of tendering to you the assurance of my most distinguished consideration.

The Honorable William McDougall,
Provincial Secretary, Ottawa.

FRED. GAUTIER,
Consul General of France

PROVINCE OF CANADA.

By His Excellency, &c.

To all and singular the Justices of the Peace, and other Magistrates and Officers of Justice within their several jurisdictions in the Province of Canada.

GREETING :

Whereas one Ernest Sureau Lamirande, late of Poitiers, in the French Empire, stands accused of the crime of forgery, by having, in his capacity of Cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the said Bank, and thereby defrauded the said Bank of the sum of seven hundred thousand francs; and whereas a requisition has been made to me by the Consul General of France in the Provinces of British North America, pursuant to the terms of a convention, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of France, signed at London on the thirteenth day of February, in the year of Our Lord one thousand eight hundred and forty three, to issue my warrant for the apprehension of the said Ernest Sureau Lamirande; Now know ye that I, Charles Stanley, Viscount Monck,

being Governor General of the said Province of Canada, under the authority in me vested by the provisions of the Statute passed by the Legislature of the United Kingdom of Great Britain and Ireland, in the Session thereof held in the sixth and seventh years of Her Majesty's reign, intituled, "An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders," do by this my warrant require you, and each of you, the Justices of the Peace, and Magistrates and Officers of Justice within your several jurisdictions in the said Province of Canada, to aid in apprehending the said Ernest Sureau Lamirande so accused, and committing him to any one of the gaols within the said Province of Canada, for the purpose of being delivered up to justice, according to the provisions of the said convention. Given, &c.

This is my draft.

GEO. ET. CARTIER,
Attorney General, L. C.

Ottawa, July 26th, 1866.

OTTAWA, 1st August, 1866.

SIR,—I have the honor to inclose to you a warrant for the apprehension and extradition of the individual named Ernest Sureau Lamirande, accused of forgery, as requested by you in your letter of the 18th July last.

I have the honor to be, Sir,
Your obedient servant,

E. PARENT.

M. Fréd. Gautier,
Consul General of France,
Quebec.

OTTAWA, 3rd August, 1866.

SIR,—In transmitting to you the warrant of extradition in the case of the individual named Ernest Sureau Lamirande, the warrant of arrest issued by the civil tribunal of Poitiers was inadvertently not returned to you, as requested by your letter of the 18th ultimo. I now supply the omission.

I have, &c.

M. Fréd. Gautier,
Consul General of France,
Quebec.

E. PARENT.

OTTAWA, 6th Aug. 1866.

By Telegraph from Montreal,
To Etienne Parent, Prov. Sec's. Office.

Lamirande is being extended (*sic*) in Court here, pray send to Mr. Ramsay the papers I sent you with my request for warrant per return of mail.

F. GAUTIER.

OTTAWA, 6th August, 1866.

SIR,—In compliance with a telegraphic despatch from Mr. Gautier, Consul General of France, I enclose the only paper sent with his application for the extradition of Lamirande which has not yet been returned to him. The mandat d'arrêt issued at Poitiers was sent to him at Quebec on the 3rd, and our Warrant of Extradition on the first instant.

Be pleased to return the enclosed deposition or a certified copy thereof, when the case is disposed of.

I have, &c.,

E. PARENT.

T. K. Ramsay, Esquire,
Advocate, Montreal.

MONTREAL, 7th August, 1866.

SIR,—I have to acknowledge receipt of your letter of the 6th, enclosing me, at the request of Mr. Gautier, Consul General of France, the affidavit of Mr. Melin in the matter of Sureau Lamirande, whose extradition is required on the part of the French Government.

The affidavit will be returned, so soon as the proceedings are successfully terminated.

I have the honor to be, Sir,

Your most obedient servant,

To E. Parent, Esquire,

Asst. Prov. Sec'y, Ottawa.

T. K. RAMSAY.

POLICE OFFICE,

Montréal, 22nd August, 1866.

SIR,—I have the honor to transmit herewith the depositions and other documents in the case of Ernest Sureau Lamirande for Extradition.

I have the honor to be, Sir,

Your obedient servant,

The Honorable

The Provincial Secretary,
Ottawa.

W. H. BREHAUT, P. M.

REGINA,

vs.

Ernest Sureau Lamirande.

1. Information and complaint of Edme Justin Melin, at Montreal, 6th August, 1866.
2. Deposition of Louis Léonce Coudert, at Montreal, 7th August, 1866.
3. Deposition of Frederic R. Coudert, at Montreal, 14th August, 1866.
4. Document marked B—Translation, *Arrêt de Renvoi*, at Poitiers, 29th May, 1866.
5. Deposition of Edme Justin Melin, at Montreal, 14th August, 1866.
6. Document marked C—Deposition of Henri Marie du Bois de Jancigny, dated at Poitiers, 2nd April, 1866.
7. Deposition of Abel Frederic Gautier, at Montreal, 14th August, 1866.
8. Document marked D—Procès Verbal de Saisie, by Jolly, Juge d'Instruction, at Poitiers, 26th April, 1866.
9. Voluntary Statement of Ernest Sureau Lamirande, at Montreal, 15th August, 1866.
10. Document offering Reward of \$2,000 (no date.)
11. Deposition of Charles L. Spilthorn, at Montreal, 20th and 21st August, 1866.
12. Deposition of Emile B. Morel, at Montreal, 22nd August, 1866.
13. Copy of Warrant of Commitment of Ernest Sureau Lamirande at Montreal, 22nd August, 1866.

PROVINCE OF CANADA, }
District of Montreal. }

City of Montreal. }

POLICE OFFICE.

The information and complaint of Edme Justin Melin, *Inspecteur principal de police*, of the City of Paris, in the French Empire, now in the City of Montreal, in the District of Montreal, taken under oath, this sixth day of August, in the year of Our Lord one thousand eight hundred and sixty-six, by the undersigned, William H. Bréhaut, Esquire, Police Magistrate in and for the District of Montreal, which complainant saith :—

On the seventeenth day of March last I was directed by the Prefect of Police of the City of Paris aforesaid to seek out and apprehend an individual named Ernest Sureau Lamirande, Cashier of the Branch of the Bank of France at Poitiers in the French Em-

pire, who was liable to arrest under a warrant of arrest issued by the *Juge d'Instruction* at Poitiers aforesaid, on the charge of embezzlement of funds to the prejudice of the Bank of France to the amount of seven hundred thousand francs. My information acquainted me with the fact that the said Ernest Sureau Lamirande had left France to go to England. I followed him thither, and found traces of him at London and at Liverpool, where he had embarked under the name of Thibault on board the steamship "Moravian" bound for Portland, in the State of Maine, one of the United States of America. I at once embarked for the United States, and arrived at New York on the second day of April last. After having sought for him at New York, he was found at the Metropolitan Hotel, and apprehended on the ninth of the said month of April. After his apprehension at New York as aforesaid, an indictment (*arrêt de renvoi*) was despatched by the *Procureur Impérial* at Poitiers to the Consul General of France at New York, accusing him, in addition to the embezzlement of funds, of falsification of writing, and of forgery of commercial documents by his false balance sheet, and by false entries in the books of the said Branch, thereby defrauding the said Bank of France to the extent of seven hundred thousand francs. The said indictment was issued after complete instruction made by the *Juge d'Instruction* at Poitiers. During his detention at New York I paid him numerous visits, and he became very talkative to me. He several times voluntarily acknowledged and confessed, without either promises or threats in my presence, that he had embezzled funds to the amount aforesaid, and he even often told me the means he adopted to get the money out of the Bank. After the arrival of the indictment at New York, I notified him of it, telling him that he was further accused of forgery of commercial documents by his balance sheet, and he answered me, "It is true, I know it well." He has several times since made the same admission to me, and all his admissions to me respecting the offences of which he was accused were spontaneous and voluntary on his part, and without any promise or threat on my part to obtain them. While the suit for his extradition was in process at New York, the said Ernest Sureau Lamirande escaped. He has since been arrested in the Province of Canada. I have seen him in the common gaol of the District of Montreal; I perfectly recognized him as being the said Lamirande, and I have no doubt whatever as to his identity. He even had on the same clothes that he wore on the day of his escape. The said Ernest Sureau Lamirande is now a prisoner at the Police Office of the said City of Montreal, where I make this deposition. At New York the said Lamirande took the name of Dyhers, from Belgium, but after his apprehension and at my second visit he acknowledged that he was indeed Lamirande. I was then accompanying the Consul General Gauldrée Boileau.

I therefore demand justice and have signed after reading.

(Signed,)

E. J. MÉLIN.

Sworn before me, at Montreal, }
this 6th August, 1866. }

(Signed,) W. H. Bréhaut, P.M.

The foregoing deposition having been read in the presence of the prisoner Ernest Sureau Lamirande, he was asked whether he wished to put any questions to the deponent, and he replied that he wished to put to the witness the following questions by his Counsel, Mr. Doutre.

Question.—Besides the calling which you have ascribed to yourself, do you not also hold that of spy of the secret police, that is to say,—of paid spy? (Mr. Ramsay, on behalf of the Crown, objected to the question. Objection sustained.)

Question.—According to the French law, is it not the case that the paid spy in the service of the secret police, or in other words the accuser pecuniarily recompensed by law, cannot be a witness in cases in which he acts in that capacity?

(Same objection. Objection sustained.)

Question.—Is it not true that by Article 322 of the Code of Criminal Instruction of France, paragraph 6, the depositions of accusers, whose accusation is pecuniarily recompensed by law, cannot be received?

(Same objection. Objection sustained.)

Question.—By whom were you employed to follow the traces of the prisoner? *Ans.* By the Prefect of Police.

Question.—What salary do you receive for the duties which you perform at present in America, and especially in Canada? *Ans.* My fixed salary is the same as if I was at Paris. I have in the United States a credit opened with a banker; I expend what I require, and at my return to France I shall render an account of my expenses to the prefecture, as is always done.

Question.—What difference will there be in your emoluments if you succeed or do not succeed in taking the prisoner back to France? *Ans.* None.

Question.—Where was the prisoner in New York when you paid him the visits mentioned in your examination in chief? *Ans.* In the Ludlow Jail.

Question.—Was the prisoner aware at the time in what capacity you were acting in New York? *Ans.* Yes.

Question.—Had you ever known the prisoner before going to New York in search of him? *Ans.* No.

Question.—Is it not true that the prisoner has objected, and at present objects to your evidence?

(Objected to on behalf of the Crown. Objection sustained.)

Question.—Is there any person now here holding a warrant of arrest issued by any Court or Tribunal in France?

(Same objection. Objection sustained.)

Question.—Had you at New York in your possession, or had any other person, in the interest of the French Government, in his possession, a warrant of arrest or other equivalent judicial document issued by a Judge, or by competent authority in France, and if so state of what offence the prisoner was accused? *Ans.* I was the bearer of a telegraphic despatch from the *Procureur Impérial*, at Poitiers, to the Prefect of Police at Paris, which is equivalent to a warrant of arrest, but I was besides the bearer of a warrant of arrest issued by M. Jolly, *Juge d'Instruction* at Poitiers, where Lamirande was accused of embezzlement of funds to the prejudice of the Bank of France. Only that accusation appeared on the warrant which I held. Subsequently an indictment (*arrêt de renvoi*) arrived by which Lamirande was accused of forgery.

Question.—What has become of those documents? *Ans.* Those documents remained in the United States.

Question.—During the visits which you paid to Lamirande at New York, did you tell him that his father and his brother had been arrested in consequence of the matters of which Lamirande was accused, and for which he had been arrested at New York? *Ans.* I told him that I had learned that his father and his brother had been arrested.

Question.—What truth was there in what you told him in relation to his father and his brother? *Ans.* I had been told it on leaving France, but I did not vouch for it in speaking to Lamirande. I have since heard that the brother only was arrested.

Question.—When did you learn that the brother had not been arrested? *Ans.* I have never learned that the brother was not arrested.

Question.—Do you state that nothing destroyed your belief that the father had been arrested? *Ans.* Nothing destroyed my belief.

Question.—From what you know through your correspondence with Poitiers, or any other part of France, do you mean to say that nothing affected the information of which you speak above as having been communicated to you before your departure from France, in relation to the apprehension of the father and the brother of Lamirande? *Ans.* I was never officially informed of the arrest or of the release.

Question.—Did you not subsequently say to Lamirande that neither his father nor his brother had been arrested? *Ans.* No.

Question.—Were you ever the holder of a warrant of arrest issued under the authority of the *Procureur Impérial* of Poitiers, or have you seen such a warrant? *Ans.* I have not had any documents other than those which I have mentioned above.

Question.—How long before the date at which you say that Lamirande escaped, did you receive the indictment? *Ans.* I do not know.

Question.—When do you assert that the prisoner escaped from New York? *Ans.* I think that it was on the third of July.

Question.—What knowledge have you of the process (*instruction*) which preceded the issue of the indictment? *Ans.* None.

Question.—In the course of the visits which you paid to Lamirande at New York, did you speak to him of what the Consul would do for him if he returned to France. *Ans.* The Consul General, on the occasion when we first went together to see Lamirande, and when he was recognised as being indeed Lamirande, told him that if he would return voluntarily to France, he would write to his judges to interest them in his behalf, and he gave his word of honor that he would go. I myself often spoke to him to the same effect, and I advised him to return to France. I told him that if he returned voluntarily as he promised, the Consul General would write what he had said he would, and that I in my oral evidence at Poitiers, before the Court of Assize, would be favorable to him. These conversations took place ten, twelve, fifteen, or twenty times. The day following, or possibly the very day of his arrest, conversations of the nature which I have just described took place between Lamirande and myself. At a certain period after the suit for extradition had commenced I continued to see Lamirande, and one day he said to me: "I can no longer speak with you about my affair, let us talk of something else," and accordingly we talked of other matters. During that suit I one day entirely ceased to visit him. I no longer saw him, except at Court, where I had no conversation with him.

Question.—How long before his escape did you cease to visit him? *Ans.* I cannot say.

Question.—Could there have been a month as well as a week between the time when you ceased to visit him and the time of his escape? *Ans.* I cannot say; it may have been a fortnight, or it may have been a week; I cannot state exactly.

Question.—When you had ceased to visit him, had the question ever been raised as to his being accused of forgery, and how? *Ans.* Yes, I had told him in prison that he had been accused of forgery through his balance sheet, as stated in the indictment, and he coincided with it, and even endeavored to give an explanation as to the interpretation of the word forgery (*faux*).

Question.—Be good enough to state as exactly as possible what Lamirande said to you in relation to his balance sheet? *Ans.* There was no discussion between us as to his balance sheet. I said to him, "You are accused of the forgery of commercial documents." "In what way, of forgery?" replied he. I then said to him: "By your false balance sheet, which you signed on the day of your departure." He then said to me, "that is not a forgery in the eye of the law." This is the substance of the conversation that I had with Lamirande.

Question. Did you tell him in what respect it was maintained that his balance sheet was false and untrue? *Ans.* In bearing upon the face of it that there was in the safe of the bank a sum of seven hundred thousand francs which he carried off with him. This is what was told me about it, and what I repeated to Lamirande. I did not see his balance sheet.

Question.—Did that conversation take place before or after the arrival of the indictment? *Ans.* The question was probably raised before, but it certainly was afterwards. I had received letters giving me the information, that is to say, of his being accused of forgery.

Question.—Did not the Consul General of France at New York say to Lamirande in your presence that there was no accusation of forgery against him, and that no punishment except imprisonment could be inflicted upon him? *Ans.* When I saw Lamirande with the Consul General, it was on the day after his apprehension, and it was evident that we were not aware that an accusation of forgery against him existed; therefore no mention could be made of it, and I do not recollect that the Consul General spoke of imprisonment.

Question.—Do you know whether in the statement made by Lamirande's director, of the matters of which Lamirande is accused, the question of accusing the latter of forgery is raised? *Ans.* I have not read that document, nor have I heard it read.

Question.—From what Lamirande told you, would his balance sheet have been true and exact, if Lamirande had not carried off seven hundred thousand francs? *Ans.* I cannot answer that question, but if the seven hundred thousand francs had remained where they were, he would not have run away, and we should not have run after him.

Question.—From what Lamirande told you, what ought the balance sheet to have contained in order not to be false and untrue? *Ans.* The question was never raised between us.

Question.—Of what commercial documents were you talking to Lamirande when you told him that he was accused of forgery? *Ans.* I told him he was accused of forgery in that he had falsified his writings and made up a false balance sheet.

Question.—In what respect did you tell him that he had falsified his writings? *Ans.* I simply told him that he had falsified his writings without telling him in what respect he had falsified them, because I had received no further information.

Question.—What did Lamirande say to that? *Ans.* I should find it very difficult to say; I do not remember.

Question.—Did Lamirande ever acknowledge before you anything other than what resulted from the fact of the sum of seven hundred thousand francs which he had abstracted, being entered upon his balance sheet as being in the safe of the Bank, and which was not there, he having abstracted it? *Ans.* When I told him he was accused of forgery he coincided with that view.

Question.—What did he acknowledge? *Ans.* When I said to him that he was accused of forgery through his balance sheet, he answered, “I know it well.”

Question.—In what respect did his balance sheet shew him to be guilty of forgery, according to what you told him? *Ans.* I do not know. I knew but of one thing, the accusation against him, and I gave him information of it.

Question.—From the information which you had received and which you had communicated to Lamirande, was there question of any other matters besides the abstraction of the sum of seven hundred thousand francs of which you have spoken? *Ans.* Yes, there was question as to the accusation of forgery.

Question.—Did that accusation of forgery refer to that sum of money? *Ans.* It is a separate crime.

Question.—Has the sum of money in question any reference more or less direct to that accusation? *Ans.* So far as I see, one results from the other.

Question.—From the information by which you have been guided throughout this affair, would the balance sheet put in by Lamirande at the time of his departure be false if the sum of seven hundred thousand francs was replaced in the safe of the Bank at Poitiers?

(Objected to on behalf of the Crown. Objection overruled.)

Ans. Though the money were replaced in the safe, the forgery would still exist notwithstanding.

Question.—Of what then does the forgery consist? *Ans.* In my view and according to the information which I had received, it consisted of causing to appear on his balance sheet, which he signed and which is an official document, a sum as being present in the safe, and in the vaults, which was not there present.

Question.—Is that what Lamirande acknowledged before you, or was it something else? *Ans.* In my view Lamirande acknowledged having committed forgery.

Question.—Was there anything said between Lamirande and you when you spoke of forgery, about anything else than causing to appear on his balance sheet a sum as being present in the safe and in the vaults which was not then present? *Ans.* Yes, we conversed about the registers also.

Question.—What was said about the registers? *Ans.* I told him that he was accused of falsification of writings in addition to his balance sheet.

Question.—What writings were in question? *Ans.* I was never furnished with details. I knew but of the accusation.

Question.—What was said between Lamirande and you in relation to those writings? *Ans.* I shall but repeat the same thing: we spoke only of the accusation. I could not give him details, I knew none. He acknowledged it.

By consent, this case is continued until to-morrow at eleven o'clock in the forenoon, for the further cross-examination of the witness by the prisoner.

(Signed,)

WM. H. BRÉHAUT, P.M.

Montreal, 6th August, 1866.

On the seventh day of August in the year of Our Lord one thousand eight hundred and sixty-six, the above named and described deponent again appeared before the undersigned, William H. Bréhaut, Esq., Police Magistrate, in and for the District of Montreal, and being again sworn in the presence of the prisoner, Ernest Sureau Lamirande, the cross-examination of the said deponent was continued as follows :

Question.—When you spoke of the falsification of writings to Lamirande, was it question of writings connected with the sum of money which was missing from the safe of the Bank after his departure? *Ans.* I am of opinion that that was what was in question.

Question.—According to the information which you communicated to Lamirande after having received it yourself was the register kept by Lamirande stated to contain the same irregularity as his balance sheet, or something different? *Ans.* I have already stated that I had no details as to the manner in which Lamirande proceeded, that I had only been told of falsification of writings and forgery of commercial documents by his balance sheet.

Question.—Did you ever say to Lamirande that he was accused of alteration of writings or of figures, either in the registers or in his balance sheet? *Ans.* As I understand it, alteration and falsification mean the same thing. I may have used both words in my conversation with him.

Question.—Be good enough to state precisely what Lamirande acknowledged before you and the terms that he made use of in so doing? *Ans.* When I said to Lamirande that he was accused, in addition to the embezzlement of funds, of forgery of commercial documents, he replied : "It is true, I know it well."

Question.—To what did Lamirande's words, "It is true, I know it well," apply? *Ans.* For my part I am morally convinced that the meaning of that reply was that he acknowledged himself to be guilty of the deed.

Question.—State in what terms Lamirande discussed with you the nature of the offence which might be the result of the facts of which he was accused. *Ans.* Lamirande maintained that the forgery of which he was accused was not that described by the law as such.

Question.—Of what arguments did he make use to disprove the nature of forgery as applied to his acts? *Ans.* I do not think we discussed the point. I only remember that Lamirande maintained that the forgery of which he was accused was not that laid down as such by the law.

Question.—What reason did he give for stating that his acts did not constitute forgery as laid down by the law? *Ans.* I think, but I cannot state positively, that Lamirande maintained that forgery was a false signature, whereas his was a true one.

Question.—Have you, either at New York or at Montreal, had consultation with those who were conducting the prosecution, as to the nature of the accusation which was to be preferred against Lamirande? *Ans.* At New York, yes; but at Montreal, no. But at New York the question of forgery was never spoken of, because embezzlement was included in the treaty; although the indictment which was placed in the possession of Mr. Judge Commissioner Betts contains that accusation.

Question.—Have you, in Montreal, held any conversations in which the reasons were explained to you why the accusation was not the same here as at New York? *Ans.* It was useless to explain it to me; I knew it. At London, in England, where I have often been on extradition business, I became acquainted with the treaty existing between France and that Power and her Colonies. The whole Lamirande business was discussed between the advocates for the prosecution and myself; we read the treaty existing between England and France, and I had no need to have it explained to me for I knew it well beforehand.

Question.—Was there any discussion between you as to the means to be adopted to give the facts the color of a forgery? *Ans.* No.

Question.—Did not the advocates for the prosecution tell you that there was no way in this country of basing an accusation of forgery on the facts of which Lamirande was accused? *Ans.* Before seeing the Montreal advocates I went to Quebec, where, without any one's advice, I made an affidavit accusing Lamirande of forgery; consequently, I knew what was to be done before seeing the Montreal advocates. The advocates for the prosecution at Montreal did not tell me that there was no way in this country of basing an accusation of forgery, on the facts of which Lamirande was accused.

Question.—Why was not the accusation of forgery adduced in New York, since the

indictment contained it? *Ans.* Probably because the accusation of embezzlement of money was sufficient.

Question.—Was not the accusation of forgery abandoned at New York upon the advice of Counsel who declared it to be incompatible with the facts, and was not that declared by Commissioner Betts? *Ans.* I never heard any thing said about that.

Question.—Give the substance of what you declared in the affidavit which you say you made at Quebec? *Ans.* In the affidavit I stated that Lamirande, a fugitive from French justice and from American justice, had, according to information of which I was in possession, taken refuge on Canadian soil; that in France he was accused of the embezzlement of a sum of 700,000 francs to the prejudice of the Bank of France at Poitiers; that furthermore, he was accused of falsification of writings and of forgery of commercial documents by his balance sheet.

Question.—If the sum of seven hundred thousand francs had been carried off from the Bank of Poitiers by any other person than Lamirande, did any other circumstance exist which would have justified you in declaring that his Balance sheet was false? *Ans.* Yes, the indictment inculpated him.

Question.—Was there any thing in Lamirande's conduct which might have led you to doubt the correctness of his balance sheet, if the money had been taken by another person? *Ans.* I do not know that there was.

Question.—From your knowledge of the Treaty between France and England are you able to state what was its intended duration, and how it could be abrogated? *Ans.* In consequence of some circumstance with which I am not acquainted, the Imperial Government notified that of England that the Treaty would terminate on the first of June, eighteen hundred and sixty-six; but the English Government requested that it might continue in operation until a new Treaty could be concluded.

Question.—According to French Law which is the heaviest form of crime: the embezzlement of money or forgery; and which of them involves the severest punishment? *Ans.* Forgery beyond doubt.

Question.—In your conversation with Lamirande, which did he acknowledge to be false—his balance sheet, or the cash? *Ans.* I think he acknowledged that both the entries were false, and his balance sheet also.

The prisoner declares by his Counsel, Mr. Doutre, that he has no more questions to put to the witness.

Mr. Pominville for the prosecution, re-examines the witness by putting the following question:—

Question.—In the cross-examination which you have undergone on the part of the prisoner, you spoke of a conversation which the Consul-General had with the prisoner, in which he stated that if he (the prisoner) returned to France of his free will, he would write to the Judges in his behalf, and that prisoner gave his word of honor that he would set out. Have the goodness to state what conversation between the Consul-General and the prisoner led the former to speak in that manner? *Ans.* When we arrived at the prison at Ludlow,—I, the Consul-General, and Mr. Béranger the Vice-Consul—we were conducted into a small room, to which the individual in question was also brought. The Consul-General thus addressed him, "Are you Lamirande?" "Yes, sir." "You were the Cashier at Poitiers?" "Yes, sir, and I am fully aware of my position; my intention is not to resist the laws of my country." The Consul General then said to him, "This is not an official visit which I am now making; it is a friendly one; as Consul General I feel bound to care for all my fellow-countrymen, and as you do not intend to offer any resistance, write me a few words, placing yourself at my disposal; I shall then write to your Judges to enlist their feelings in your favor, for as far as I can learn from Mr. Melin your family is respectable and respected."

The Counsel for the prosecution declares that he has no other questions to ask in re-examination, the examination is therefore closed and the witness has signed.

(Signed,) E. J. MELIN.

(True Copy)

W. H. BRÉHAUT, P.M.

Taken and acknowledged before me at Montreal, the }
seventh of August, eighteen hundred and sixty-six. }

(Signed,)

• W. H. Bréhaut, P.M.

PROVINCE OF CANADA, }
 District of Montreal. }

POLICE OFFICE.

The deposition of Louis Léonce Coudert, Esquire, Advocate, of the City of New York, in the State of New York, one of the United States of America, at present in the City of Montreal in the District of Montreal, taken under oath this seventh day of August, in the year of Our Lord one thousand eight hundred and sixty-six, in the Police Office, in the Court House, in the City of Montreal, in the District of Montreal aforesaid, by the undersigned, William H. Bréhaut, Esquire, Police Magistrate in and for the District of Montreal, in presence of Ernest Sureau Lamirande, late of Poitiers, in the Empire of France, who now stands accused, by complaint under oath before me, under the provisions of the treaty between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the French, and of the Statutes made and provided therefor, of having committed at Poitiers, in the Empire of France, the crime mentioned and predicated by the said Treaty between Her Majesty the Queen and the said King of the French; that is to say,

That the said Ernest Sureau Lamirande did commit the crime of forgery by having in his capacity as Cashier of the Branch of the Bank of France, at Poitiers, made false entries in the books of the said Bank, and by so doing defrauded the said Bank of the sum of seven hundred thousand francs.

The deponent, Louis Léonce Coudert, deposeth and saith as follows :—

I have been acquainted with the prisoner for several months past. I caused him to be arrested first as Sureau Lamirande, although he had passed first under the name of Thibault, and afterwards under that of Dylers. I commenced proceedings against him under the Treaty and brought him before Commissioner Betts, under a warrant issued by the President of the United States, on the requisition of the French Government. On the day of his appearance before Mr. Betts, in answer to the preliminary interrogatories, he, or rather his advocate for him, and in his presence, declared that his name was Sureau Lamirande, his age, I believe, either forty or forty-two years; I am not exactly certain of his age. I instituted also a civil action against him under the name of Sureau Lamirande. His first name was Ernest, and he had perhaps others. The object of the civil action was to recover the sum embezzled to the amount of two hundred thousand dollars. He was sworn personally by the name of Sureau Lamirande, and in obedience to that summons he appeared by his advocate, and entered a plea in defence; the whole before a court of competent jurisdiction, and in the cause he was condemned, after hearing, to pay two hundred thousand dollars, as being truly Sureau Lamirande. I saw him also several times personally; the first time on the ninth day of April one thousand eight hundred and sixty-six, being the day of his arrest, first at the Metropolitan Hotel. There I did not speak to him, but afterwards in Ludlow street Gaol, in the City of New York, on which occasion he repeatedly acknowledged to me his identity. He several times promised that he would voluntarily return to France, and entreated me not to enter an action to procure his extradition; saying, the Bank has lost enough by me without my causing a further loss. The first time of my speaking to him was on the day of his arrest. I had traced him personally myself from Portland to New York. At first he told me that he did not know what I was talking about, but while talking with him I mentioned what either the Consul General or Mr. Melin had told me—that his father was arrested. He made answer that it was not true, that it could not be, that he had remained at New York longer than he intended, with the hope of seeing some French newspapers from which he might learn the particulars of the affair and discover whether they had found his family. That appeared to shock him extremely. He even shed tears, and at last acknowledged to me that he was really the person whom I was in search of, that is to say, Sureau Lamirande, cashier of the Bank of France, at Poitiers. I told him also that I had found at Quebec a Mr. Valin to whom he had delivered six thousand francs of the stolen money, and that the said Mr. Valin was exceedingly vexed at being in possession of those funds. He told me that Mr. Valin was not aware where the money came from; that he only was the guilty man. I have to add that I caused to be seized also in New York, in the course of the civil suit and in virtue of the judgment given against him, in favor of the Bank of France, about one hundred and thirty-five thousand francs. I think that is the exact sum. Moreover, I often saw him when he came into court, and his identity was never called in question. He acknowledged

at least a hundred times that he was the accused party in the Bank of Poitiers affair. The investigation during the suit for the extradition of the prisoner lasted nearly three months, and he appeared before the court sometimes once, sometimes twice and even three times in the week. It was at our office, that is to say, that of my brothers and myself, under the firm of Coudert Brothers, who conducted the suit before the court, in virtue of orders given by the Consul General of France at New York, besides which I hold a special Power of Attorney from the Bank of France in my own name. The prisoner was assisted by several advocates of New York. During the progress of the Civil suit, in which he was defended by advocates of New York, we received two copies of documents, served on us by the advocates of the prisoner in the course of the defence. Those copies were signed "Lamirande." I make oath that the prisoner now here before me is the person named Sureau Lamirande, against whom I instituted a suit in New York, and who, during the investigation made at New York for his extradition, pleaded adversely. Since I saw him at New York, he has cut off his mustachios and part of his beard; but if he will open his mouth it will be found that he has one tooth wanting on the left side of the upper jaw, which tooth is decayed and partly broken. He disappeared from New York and I have seen him again here at Montreal. When he escaped from New York he was in custody of the United States Marshal, but in the immediate charge of Mr. Deputy Marshal Greene. Immediately after the escape of the prisoner we, that is the house of Coudert Brothers, had a certain number of hand bills printed, one of which is now produced and marked with the letter A. The extradition of the prisoner was demanded at New York on the strength of a first document which made no mention, I think, of any thing but embezzlement of money. That document was sent before the *instruction* in France was completed. When the *instruction* was completed, depositions and an indictment were transmitted to us, which charged him with embezzlement and forgery. At the time when the latter documents were transmitted to us the first steps for the procuring of the extradition of the prisoner were already taken on the ground of embezzlement of funds. Under the treaty with the United States we were as well entitled to demand his extradition for embezzlement as forgery, and it was perfectly futile to change the proceeding already commenced on the ground of embezzlement. And further the Deponent saith not, and the above being first read, has signed.

(Signed,)

LOUIS LÉONCE COUDERT.

Sworn before me, at Montreal, the seventh day of }
August, one thousand eight hundred and sixty-six. }

(Signed,) W. H. Bréhaut, P.M.

The foregoing deposition having been made and read in presence of the prisoner, Ernest Sureau Lamirande, he was asked whether he desired to put any questions to the witness, and he answered that he desired to put to him the following questions by his Counsel, Mr. Doutre.

Question.—Was it by your instruction and under your direction that the arrest of the prisoner was effected in Canada.

Mr. Ramsay objects to the question on behalf of the Crown, inasmuch as it has no reference to the preliminary examination, the arrest of the prisoner having been ordered by a warrant under the hand of His Excellency the Governor General.

(Objection sustained.)

Question.—How long a time elapsed between the commencement of the proceedings for extradition at New York, and the arrival of the individual above mentioned from France? *Ans.* I cannot tell you. I do not recollect. The affair went on slowly after the formal institution of the proceedings to obtain extradition, because Lamirande entreated that it might not be hurried on, stating that he would return to France of his own accord. The indictment reached us between two and four weeks before the escape of the prisoner.

Question.—Was the addition of the charge of forgery to that of embezzlement in the indictment made in consequence of suggestions from you, or from those persons with whom you acted at New York to the French authorities? *Ans.* By no means.

Question.—Did you take part at Montreal in the consultations relative to the manner of claiming the extradition of the prisoner in Canada?

(Objected to on behalf of the Crown. Objection sustained.)

Question.—What did the several documents received from France at New York relative to the claim for extradition consist of? *Ans.* As nearly as I can recollect, they were, a warrant of arrest, depositions, and an indictment, in the way of documents.

Question.—What became of all those documents? *Ans.* I believe they were all deposited in the hands of Mr. Betts, the Commissioner, before whom the proceedings to procure the extradition of the prisoner took place. The first document was the warrant of arrest. I think that hitherto we have called this an order of arrest. This was the document in which the prisoner was charged with embezzlement. Next was the *enquête* or instruction. As the depositions taken in the course of the inquiry (*instruction*) proved an embezzlement of money and an act of forgery, the document founded on them, that is to say, the indictment, alleges him to be guilty of both crimes. I think we received these documents in the following order: first, the warrant of arrest, next the depositions, and afterwards the indictment. The *arrêt de renvoi* corresponds nearly with the indictment in this country.

Question.—Among those depositions was there one made by the Director or Principal Officer of the Branch of the Bank of France at Poitiers, Mr. Adolphe Bailly? *Ans.* Personally, I was not charged with the management of the process instituted against Mr. Lamirande. I think, however, that there was a deposition made by a Mr. Bailly, but I do not know what was his official quality.

Question.—Can you explain why the prisoner is charged here with forgery only? *Ans.* Because no other charge was necessary to procure his extradition.

Question.—Has the identity of the prisoner as Ernest Sureau Lamirande, charged with embezzlement or forgery on the Bank of France in its branch at Poitiers, ever been affirmed by any person who knew him in France, except himself? *Ans.* No, we concluded that he must know himself, and the description which we received from France perfectly agreed with his appearance.

Question.—Whether was the description in words or photograph? *Ans.* Both.

The prisoner declaring that he had no more questions to put to the witness, the examination was closed, and the deponent has signed.

(Signed,) LOUIS LÉONCE COUDERT.

Taken and acknowledged before me, at Montreal, this seventh }
day of August, one thousand eight hundred and sixty-six. }

(Signed,) W. H. Bréhaut, P.M.

A true Copy.

W. H. Bréhaut, P. M.

PROVINCE OF CANADA, }

POLICE OFFICE.

District of Montreal. } The deposition of Frédéric R. Coudert, Esquire, Advocate, of the City of New York, in the State of New York, one of the United States of America, now present in the City of Montreal, in the District of Montreal, taken under oath this fourteenth day of August, in the year of Our Lord one thousand eight hundred and sixty-six, at the Office of Police, in the Court House, in the City of Montreal, in the District of Montreal aforesaid, by the undersigned, William H. Bréhaut, Esquire, Police Magistrate in and for the District of Montreal, in presence of Ernest Sureau Lamirande, late of Poitiers, in the Empire of France, who now stands charged before me on a complaint brought before me under oath in virtue of the provisions of the treaty between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the French, and of the Statutes made and provided therefor, of having committed at Poitiers, in the Empire of France, the crime hereinafter mentioned, the same being specified and predicated by the said Treaty between Her Majesty the Queen and the said King of the French: that is to say, that he, the said Ernest Sureau Lamirande did commit the crime of forgery, having in his capacity of Cashier of the Branch of the Bank of France at Poitiers made false entries in the books of the said Bank, and thereby defrauded the said Bank of the sum of seven hundred thousand francs.

The deponent, Frédéric R. Coudert, deposeth and saith as follows:

I am an advocate practising at New York since one thousand eight hundred and fifty-two. I was employed as counsel in the proceedings instituted against the prisoner Lamirande at New York. The prisoner, M. Lamirande, was arrested and brought before the Court presided over by Mr. Commissioner Betts. We had a great many sessions, in which the firm or partnership of Coudert Brothers represented the French Government, and several advocates, (among them Mr. Spilthorne here present,) represented the prisoner Lamirande. These sessions continued till the third of July last. At that last session or meeting, or at the one next preceeding it, I cannot affirm which, Mr. Spilthorne prayed leave of the Commissioner to carry away with him a document written in the French language, which came from France, and which we term the *arrêt de renvoi* (Indictment.) This document had been proved by us to be authentic, and admitted to be so by the Judge Commissioner. We had also proved in like manner a translation of the same document into the English language, made in my office, and the correctness of which I am able to certify. This translation had been also received by the Judge, and marked by him with his initials; it is now in my possession. When Mr. Spilthorne prayed leave to carry away this document with him, he said that he would bring it back at the following session. I made no objection to the granting of this request of Mr. Spilthorne's, but my brother, who was associated with me in the management of the proceedings made the remark that he would not entrust a document of such value to Mr. Spilthorne, that probably I should never see it (the document) again. Since that day, I have never set eyes on that document again, although I have made search for it among all Mr. Betts' papers. Not finding it, I went to Mr. Spilthorne's office. I reminded him that he had carried away the document in question. He acknowledged that he had taken it, but declared that he did not know whether he had returned it or not. That in order to satisfy his mind respecting it, he must look for it among his papers, which were at his dwelling house, and he swore to me that if he could find the paper in question, I should have it at my office the following day (Wednesday) at nine o'clock. I told Mr. Spilthorne that the case was one of urgent importance; and that he would render me a personal service if he would go at once to his house, that I would pay for a carriage in order that he might lose the less time, but I could not get him to do that. Next morning, about ten o'clock, as I had received no communication from Mr. Spilthorne I sent one of my clerks to him, with a letter requesting that he would send me the indictment. He returned me no answer, and I have never set eyes on the paper since. I do not know that there is a French copy of the document, and I do not believe that there is one.

Question.—Have you in your possession the English translation of the Indictment which was made use of before Mr. Commissioner Betts, at New York? *Ans.* Yes Sir, I have that document. Here it is.

Mr. Ramsay, representing the Crown, moved that that document should be received and fyled by the Court. Mr. Dautre, Counsel for the prisoner, objected to the motion and to the production of the document, inasmuch as it possessed none of the characters required by the Statute 6 and 7 Vic., c. 75, section 3.

The Court overruled the objection, and the document was fyled and marked with the letter B.

The deponent continued as follows:—

The translation is one compared by myself with the paper proved in evidence before Mr. Betts, which translation has been submitted to the opposite parties, and against which I never heard a word of objection.

Further, the deponent saith not and this deposition being first read, declares that it contains the truth, in which he persists and hath signed.

(Signed,)

F. R. COUDERT.

Sworn before me, at Montreal, this }
fourteenth day of August, one thou- }
and eight hundred and sixty-six. }

(Signed,) W. H. Bréhaut, P.M.

The foregoing deposition having been made and read in presence of the prisoner, Ernest Bureau Lamirande, he is asked whether he has any questions to put to the witness, and he makes answer that he desires to put the following questions by his counsel, Mr. Doutre.

Question.—Was it under the indictment which you have been talking of that the prisoner was arrested in the United States? *Ans.* No.

Question.—How, and for what reason, was that indictment brought forward in the proceedings instituted at New York. *Ans.* As a proof in confirmation of the charge offered on the part of the prosecuting party.

Question.—For what crime was the prisoner arrested in the United States? *Ans.* For what we term the crime of embezzlement.

Question.—When the prisoner was arrested was the party who arrested him provided with a warrant from the French authorities? *Ans.* I believe he was; either then or a short time afterwards we were furnished with one; we made no use of it in causing him to be arrested.

Question.—What has become of the warrant under which the prisoner was in custody at New York with a view to his extradition? And why is that document not in the hands of the parties who are prosecuting the extradition of the prisoner? *Ans.* The only warrant in virtue of which the prisoner was arrested is that of Mr. Commissioner Betts, which is of course in his office, I presume. If you mean the warrant signed by M. Jolly, the *Juge d'Instruction*, immediately after the flight of M. Lamirande, and before any charge was produced against him, I think that document is in the hands of Messrs. Pominville and Bétournay.

Question.—With what crime is the prisoner charged in the warrant issued in France and which is in the hands of Messrs. Pominville and Bétournay?

Question objected to by Mr. Bétournay, on behalf of the prosecution, and the objection sustained.

Question.—Did Mr. Commissioner Betts hold any sitting on the accusation brought against the prisoner at New York, after the indictment which you say has disappeared had been entrusted to Mr. Spilthorne? *Ans.* I do not think he did. As I stated before, that document was entrusted to Mr. Spilthorne at the last sitting, or the last but one, my impression is that it was at the last, that being the case there was no other sitting held.

Question.—Who is the custodian or legal keeper of the papers of which that document forms a part? *Ans.* Mr. Commissioner Betts.

Question.—Are you aware that Mr. Commissioner Betts ever required Mr. Spilthorne to restore that document to the scroll of papers appertaining to the case? *Ans.* No, I am not aware of that; but I hold an authority from Mr. Betts to take depositions in the case. It is a written authority. I received it by telegraph, and it was sent by letter to Mr. Osborne, one of his colleagues, who communicated it to me as he took it from his waste paper basket, and who threw it back into the same place after having shewn it to me. I also received a telegram to the same effect. Mr. Osborne had previously permitted me to examine the documents in order that I might take what I wanted, and Mr. Betts himself had allowed my clerk, some days before, to take such documents as I desired to have.

Question.—Did the disappearance of the indictment lead to any fresh proceeding on your part? *Ans.* It did. I consulted the District Attorney, who told me that I ought to enter a complaint. This was on Friday morning. As I was reluctant to enter a complaint against a professional brother, I sent a clerk to Mr. Spilthorne about three o'clock, the time at which they told me he would be found at home. He was not there, and I learned for the first time that he was about to start for Canada. I then proceeded to Mr. Commissioner Osborne's and signed an affidavit. He signed a warrant for the arrest of Mr. Spilthorne, placed it in the hands of the Marshal, but the Marshal could not find him.

Question.—Will you recite the substance of the affidavit? *Ans.* It contained the facts as I have stated them to you, with this addition! That, in my opinion, Mr. Spilthorne was keeping that document with intent to steal it, or to make away with it, in order that we might not have the benefit of it in Canada; that is, as nearly as possible, what I declared in my deposition.

Question.—What is the designation of the offence for which Mr. Osborne issued his warrant against Mr. Spilthorne? *Ans.* I refuse to answer that question, as I do not know

that I could give the exact designation to the offence as the District Attorney would give it.

The Court sustains the witness in his refusal to give any other answer but this.

Question.—For what purpose did Mr. Spilthorne pray leave to carry away that document with him? *Ans.* Naturally, I cannot positively affirm what his purpose was; he alleged that he was desirous of comparing it with my translation.

Question.—How long before that time had that translation been made? *Ans.* I cannot tell you; perhaps eight days, perhaps fifteen days.

Question.—Is the document which you produce, materially or in substance the same as that which Mr. Spilthorne wished to compare with the indictment? *Ans.* I cannot positively tell you that.

Question.—Was the document which you say remained in the hands of Mr. Spilthorne an original document, or a copy? *Ans.* The document delivered to Mr. Spilthorne was a certified copy, but certified so as to serve as an original before the tribunals of France, as the witnesses affirm therein.

Question.—Did you exhibit to Mr. Spilthorne any written authority from Mr. Commissioner Betts delivered to you by him to take possession of the said indictment? *Ans.* As Mr. Spilthorne solemnly promised (swore) that he would restore it to me, and did not talk to me about authority from Mr. Betts, so neither did I talk to him about any authority.

Question.—Is the tribunal presided over by Mr. Betts a Court of Record? *Ans.* For certain purposes it is similar to a Court of Record; for instance, with respect to the embezzlement or abstraction of a document, by the law of Congress; nevertheless, it has not technically speaking a Clerk.

Question.—Are you one of those who directed the proceedings, to obtain the extradition of the prisoner at New York? *Ans.* They were altogether directed by my office, that of myself and brothers.

Question.—Was the extradition of the prisoner demanded in the United States on a charge of forgery?

Question. objected to by the Counsel for the prosecution, and the objection sustained by the Court.

Question.—What has become of the documents produced in the United States, and which accompanied the said indictment? *Ans.* Part of them are in the hands of Mr. Commissioner Betts, part in those of Messrs. Pominville & Betournay, and I do not know where the indictment is.

Question.—Were there among those documents any depositions taken in France, and among them the deposition of the Director of the Branch of the Bank of France at Poitiers?

Question. objected to by Counsel for prosecution and objection sustained by the Court.

Question.—What part of those documents remained in the hands of Mr. Commissioner Betts?

Same objection; objection sustained.

Question.—Is there to your knowledge in existence any deposition (what is termed here in Canada and in the United States, an affidavit) charging the prisoner with forgery?

The same objection made by the Counsel for the prosecution, inasmuch as the question is too general and ought to be limited in its bearing to the prosecution of the prisoner in Canada. Objection overruled.

Ans. There were depositions in existence, and I presume they still are in existence. I have seen one or more depositions in which it was stated that Mr. Lamirande had prepared false balance-sheets, and had committed forgeries in commercial documents to conceal his robberies. I recollect even that one witness deposed that he had examined the cash box and compared the cash it contained with the balance sheet, and that by the use of ciphers the latter was made to conceal a deficit of several hundred thousand francs, and that according to the evidence of that witness or of some other, Mr. Lamirande must have been long in the habit of making false balance sheets, I think every day, but at least very frequently.

Question.—Have you ever seen any of these balance sheets or documents charged as forgeries? *Ans.* No, sir, but I have seen a procès-verbal stating, I think, that such a document had been secured.

Question.—Was the document mentioned in that procès-verbal alleged to be false?

Ans. I do not know. If I recollect aright, that document had been secured in the beginning, either immediately after the flight of Mr. Lamirande or after the examination of the books.

Question.—Was that document sent to America? *Ans.* No, I never saw the document. Neither were the books sent to America.

Question.—Were fac-similes or copies of the documents alleged to be forged, sent to America? *Ans.* Not to my knowledge, but I believe that the substance of the documents is contained in the indictment, of which I have this day produced a faithful translation.

Question.—Do you know who represents the French Government in the demand now made here in Canada, for the extradition of the prisoner? *Ans.* I presume it is the Consul General.

The prisoner declares that he has no more questions to put to the witness, and the examination is closed, and this deposition being read, the deponent hath signed.

(Signed,) F. R. COUDERT.

Taken and acknowledged before me, at Montreal, }
this fourteenth of August, one thousand }
eight hundred and sixty-six.

(Signed,) W. H. Bréhaut, P.M.

A true copy.

W. H. Bréhaut, P.M.

B.

NAPOLÉON, *by the Grace of God and the will of the People, Emperor of the French, to all to whom these presents shall come.*

GREETING :

(May 29, 1866.)

Sureau Delamirande, *alias* Lamirande, Ernest Charles Constant, accused of thefts, *qualifiés* breaches of trust, *qualifiés* forgeries in commercial or banking accounts, and of having made use of forged documents (*pièces*).

The Imperial Court of Poitiers has, in the *Chambre des Mises en Accusation*, rendered the following decree :—

Assizes of the Department of the Vienne.

After hearing the report made to-day, in the name of the *Procureur Général* (District Attorney), by Mr. Duverger, his substitute, of the criminal proceedings instituted before the Tribunal of the District of Poitiers (Vienne), against Sureau Delamirande, *alias* Lamirande; Ernest Charles Constant, former cashier of the Branch of the Bank of France in Poitiers, 42 years of age, born on the 29th October, 1823, at Corra (Vienne), residing latterly at Poitiers, and who has since absconded, charged with thefts, *qualifiés* breaches of trust, *qualifiés* forgeries in commercial or banking accounts, and of having made use of forged documents.

Having seen all the papers and proceedings in the case, having seen also the *réquisitoire* (requisition) of the *Procureur Général*, under date of this day, written and signed by Mr. Duverger, his substitute, and which reads as follows :—

Having seen the articles 379, 386, 408, 147, 148 and 164, of the penal code and the article 217, and those following of the *Code d'Instruction Criminelle*.

Whereas, from the judicial examination of the charges and evidence of guilty result, there appear sufficient grounds to arraign the accused on his trial for the offences which are charged to him, and which being qualified crimes are punished with afflictive and ignominious penalties by the aforequoted articles of the penal code.

Whereas, in fact, on the twelfth of March, 1866, Sureau Delamirande, who was only known under the name of Lamirande, which he always used to sign, Cashier at the Branch of the Bank of France at Poitiers, since the month of August, one thousand eight hundred and fifty eight, has absconded, carrying with him the key of the upper compartment of the

safe for daily use, of which he was the only accountant, and of which he had the handling in his aforesaid capacity, in which compartment were contained a large amount of funds and bills of the Bank of France, and that the examination of that safe has shown that previous to his departure, Sureau Delamirande embezzled from said safe, and appropriated to his own use four hundred and eighty-five thousand two hundred and seventy-one francs, sixty-four centimes in specie and bank bills, belonging to the Bank of France.

Whereas, in order to ascertain the whole amount of the embezzlement or subtraction of which the cashier had been guilty, there had been instituted an immediate and minute examination of all the valuables, which should have been in the reserve of the Bank, which is called vault or cellar, and in which is deposited the specie which is taken from the safe for daily use in proportion as the latter contains too much of it, but which is no longer at the personal and exclusive disposition of the cashier, for one can only enter that vault or cellar by means of two different keys, one of which is in the hands of the Director; and that it has been established, according to the accounts, that there was there a deficiency of two hundred and nineteen thousand four francs and thirty centimes, either by the impairing of a large number of bags of gold and silver, practised by the cashier, or by the subtraction of gold bags, which it was easy for the latter to abstract in the cellar or vault where he was superintending the deposits and the shipments of funds, when he was alone, by taking advantage of the absence of the Director and the *employés* of the bank, who had charge of the transfer of the bags.

Whereas, it is then proven that Sureau Delamirande has embezzled or fraudulently abstracted to the prejudice of the Bank of France, while he was the paid Cashier thereof, a total amount of seven hundred and four thousand two hundred and seventy-five francs, ninety-four centimes.

Whereas, Sureau Delamirande, in his capacity of Cashier, had to furnish the Director of the Bank, every evening, with a statement (*bordereau de situation*) signed by him, and in which he certified the state of the several safes of the Bank, indicating by their several values the sums contained in each of them, that is to say, in the safe for daily use, in a second safe called auxiliary safe and in the vault. That he has made that *bordereau* or daily balance sheet on the twelfth of March, 1866, a few hours previous to his departure, that thus, by handing on that said day, to the Director of the Bank a balance sheet certified true and signed by him, attesting that the totality of the cash of the Bank of Poitiers amounted to eleven millions, four hundred forty-three thousand, five hundred and sixty-six francs, eighty-four centimes, while in reality the cash was lessened by the amounts embezzled or abstracted by him, he has been guilty of forgery in commercial or banking accounts, by fraudulently altering in the said balance sheet the declarations and facts which it was to contain and establish, and has besides knowingly made use of said forged statement by handing it to the Director, all in order to conceal the fraudulent subtractions and the embezzlement he had perpetrated.

Whereas, the said thefts and embezzlement commenced at a period long prior to the 12th March, 1866, Sureau Lamirande, in order to conceal them has constantly since then up to this last date of the 12th March, inserted in the daily balance sheets, made up and handed by him to the Director, the false declaration, that there was in cash a superior amount to that which was really there, which multiplies the forgeries which he has perpetrated.

The *Procureur Général* requests that it please the Court to declare that there is reason to arraign said Sureau Delamirande, *alias* Lamirande, Ernest Charles Constant, 42 years of age, former Cashier of the Branch of the Bank of France in Poitiers.

1. For having within ten years, at Poitiers, fraudulently abstracted sundry amounts of specie in gold or silver, in the vaults or cellar of the Branch of the Bank of France, and at the prejudice of that establishment.

For having perpetrated these fraudulent subtractions with the circumstance that he was the hired (*salaire*) Cashier, or hired employee (*homme de service à gages*) of that said Bank of France.

2. For having at Poitiers, within ten years, and namely on the 12th of March, 1866, embezzled or made away with, to the prejudice of the Bank of France, who was the owner thereof, funds and bills placed in the safe for daily use of the Branch of Poitiers, which had only been handed over and entrusted to him in trust, or by way of mandate, upon condition to return or account for them, or to use or employ them as he should be directed.

For having perpetrated the embezzlement here above specified, under the circumstance that he was the Cashier or hired Clerk of the said Bank of France.

3. With having at Poitiers, on the 12th of March, 1866, fraudulently inserted on the balance sheet signed by him, which it was his duty to establish and to certify every day in his capacity of Cashier of the Branch of the Bank of France, in order to state the cash account of said Branch, the false declarations that the cash account on said day, amounted to eleven millions four hundred and forty-three thousand, five hundred and fifty-six francs, and eighty-four centimes, while it was in reality inferior to that amount, by all the sums abstracted or embezzled by him, and having thus fraudulently altered the declarations and facts which this balance sheet was to contain and establish.

4th. For having on the same day and at the same place made use of that forged document, knowing it to be a forgery when handing it over to the Director of the Bank of France in Poitiers, to establish the situation of the cash account of that establishment on the 12th of March, 1866.

5. For having at Poitiers, within ten years and previously to the 12th day of March, 1866, fraudulently inserted in several balance sheets signed by him, which it was his duty to establish and to certify every day in his capacity of Cashier of the Branch of the Bank of France, in order to state the cash account of said Branch, the false declaration that the cash account amounted to a sum superior to that which really existed, which was inferior to the figure indicated, by all the sums extracted or embezzled by him, and having thus fraudulently falsified the declarations and facts which those balance sheets were to contain and to establish.

6. For having at the same period and at the same place made use of those forged documents, knowing that they were forged, when handing them over to the director of the branch of the Bank of France, in Poitiers, in order to establish the balance sheet of that establishment on the days indicated.

Said documents and *réquisitoire* having been read by the Court in the presence of the substitute of the *Procureur Général* and of the clerk, have been left on the desk.

The substitute of the *Procureur Général* and the clerk having withdrawn.

The Court having deliberated thereon without leaving the court room, and without communicating with any one.

Whereas the acts in question are provided for and qualified crimes by the Articles 379, 386, 408, 147, 148, and 164 of the Code Penal, and that from the proceedings result charges and indications of culpability sufficient to cause the accused to be arraigned and sent before the assizes.

Adopting, moreover, the facts and motives enumerated in the *réquisitoire* of the *Procureur Général* hereabove transcribed.

Declares that there is cause to arraign Ernest Charles Constant Sureau Delamirande, *alias* Lamirande.

1. For having, within ten years, at Poitiers, fraudulently abstracted sundry amounts of specie in gold or silver, in the vault or cellar of the branch of the Bank of France, and to the prejudice of that establishment;

For having perpetrated those fraudulent subtractions with the circumstance that he was the hired (*salaire*) cashier or hired employee (*homme de service à gages*) of the said Bank of France.

2. For having at Poitiers, within ten years and namely on the 12th of March, 1866, embezzled or made away with, to the prejudice of the Bank of France, who was the owner thereof, funds and bills placed in the safe for daily use of the branch of Poitiers, which had only been handed over and intrusted to him in trust or by way of mandate, upon condition to return or account for them, or to use or employ them as he should be directed.

For having perpetrated the embezzlement herebefore specified under circumstance that he was the cashier or hired clerk of the said Bank of France.

3. With having at Poitiers, on the 12th of March, 1866, fraudulently inserted on the balance sheet signed by him, which it was his duty to establish and to certify every day in his capacity of cashier of the branch of the Bank of France, in order to state the cash account of said branch, the false declarations that the cash account on said day amounted to eleven millions four hundred and forty-three thousand five hundred and fifty-six francs eighty-four centimes, while it was in reality inferior to that amount, by all the sums ab-

stracted or embezzled by him, and having thus fraudulently altered the declarations and facts which this balance sheet was to contain and establish.

4. For having on the same day and at the same place made use of that forged document, knowing it to be a forgery when handing it over to the Director of the Branch of the Bank of France in Poitiers, to establish the situation of the cash account of that establishment on the 12th of March, 1866.

5. For having at Poitiers, within ten years and previously to the 12th of March, 1866, fraudulently inserted in several balance sheets signed by him, which it was his duty to establish and to certify every day, in his capacity of Cashier of the branch of the Bank of France, in order to state the cash amount of said branch, the false declarations that the cash account amounted to a sum superior to that which really existed, which was inferior to the figure indicated, by all the sums abstracted or embezzled by him and having thus fraudulently falsified the declarations and facts, which those balance sheets were to contain and to establish.

6. For having at the same period and at the same place, made use of those forged documents, knowing that they were forged when handing them over to the Director of the Branch of the Bank of France in Poitiers, in order to establish the balance sheet of that establishment on the days indicated.

In consequence, sends said Ernest Charles Constant Sureau Delamirande *alias* Lamirande before the Court of Assizes of the Vienne, at Poitiers, in order to be tried according to the law.

With a view to which the *Procureur Général* will draw up the arraignment against him.

The Court orders, moreover, that all constables, (*huissiers*) or officers of the public force shall arrest Sureau Delamirande, *alias* Lamirande, Ernest Charles Constant, formerly cashier of the branch of the Bank of France in Poitiers, forty-two years of age, born on the 29th of October, 1823, at Corray (Vienne) residing latterly at Poitiers (and who has since absconded) to be directly brought to the Jail established near the Court of Assizes of the Vienne, in Poitiers, and entered in the jail book of the said jail, as accused of the Acts enumerated in part of the present decree, and constituting the crimes provided for and punished by the articles 379, 386, 408, 147, 148, 164 of the Code Pénal.

Thus adjudicated at the Imperial Court (*Chambre des Mises en Accusation*), at Poitiers, the 29th day of May 1866, by Messrs. Bounet, knight of the Imperial order of the legion of honor, President Gaillard, knight of the Imperial order of the legion of honor, Aubain, Parrault, Barbier, (this latter called in to complete the required number,) counsellors (*conseillers*), who have all signed the present decree as well as Mr. E. Marrot, chief clerk.

We summon and order all constables who will be so requested to execute the said decree, to all our *Procureurs Généraux*, and to our *Procureurs* near the tribunals of first instance to stand by it, to all the commanders and officers of the public force to give their help when they will be legally required to do so.

A correct and authentic copy delivered to the *Procureur General* who has demanded it.

[L.S.]
Imperial Court of Poitiers.

The Chief Clerk,
E. MARROT.

Examined by us, Jean Baptiste Fortuné Fortoul, Knight of the Imperial order of the legion of honor, first president of the Imperial Court of Poitiers for legalization of the signature of Mr. E. Marrot, chief clerk of the said Court.

Poitiers, May 31, 1866.

FORTOUL.

[L.S.]
Imperial Court of Poitiers,
First Presidency.

Examined by us, President of the *Chambre des mises en accusation* of the Imperial Court of Poitiers.

Poitiers, May 31, 1866.

[L.S.]

ARMAND BOUNET,

Imperial Court of Poitiers.

Examined by us, Jean Fortuné Fortoul, Knight of the Imperial order of the legion of honor, first President of the Imperial Court of Poitiers, for legalisation of the signature of Mr. Bounet, President de Chambre in said Court.

Poitiers, May 31, 1866.

[L.S.]

*Imperial Court, First Presidency,
Poitiers.*

Transmitted the present arraignment to His Excellency the Keeper of the Seals, Minister of Justice and of Worship, by us, Procureur Général, near the Imperial Court of Poitiers.

Poitiers, May 31, 1866.

[L.S.]

The Procureur Général,
DAMAY.

*Imperial Court of Poitiers,
Procureur Général.*

Seen for authentication of the above signature of Messrs. Bounet, Fortoul and Damay.

Paris, June 2nd, 1866.

By delegation of the Keeper of the Seals, Minister of Justice and Worship.

[L.S.]

The chief clerk,

*Keeper of the Seals, Minister
of Justice and Worship.*

CH. MAURAT-LAROCHE.

The Minister of Foreign Affairs certifies as genuine the signature of Mr. Maurat-Laroche.

Paris, June 2nd, 1866.

[L.S.]

Seal of Foreign Office.

By authorization of the Minister, for the Sub-Director Chief of the Chancellor's office.

DUBOIS.

Examined at the Legation of the United States of America at Paris, June 4, 1866. The signature of Mr. Dubois duly legalised.

[L.S.]

JOHN HAY.

Secretary of Legation.

*Legation of the United States
of America in France.*

A true copy,

W. H. Brehaut, P.M.

PROVINCE OF CANADA, }
District of Montreal. }

POLICE OFFICE.

The deposition of Edme Justin Melin, *Inspecteur Principal de Police* of the City of Paris, in the Empire of France, now resident in the City of Montreal, in the District of Montreal, taken under oath this fourteenth day of August, in the year of Our Lord one thousand eight hundred and sixty-six, at the Police Office in the Court House, in the City of Montreal aforesaid, by the undersigned, William H. Bréhaut, Esquire, Police Magistrate in and for the District of Montreal, in the presence of Ernest Sureau Lami-rande, late of Poitiers, in the Empire of France, who is charged before me in a complaint brought before me under oath, in virtue of the provisions of a treaty between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the French, and of the Statutes made and provided for that effect, of having com-

mitted at Poitiers, in the Empire of France, the crime following, mentioned and predicated in the said treaty between Her Majesty the Queen and the said King of the French; that is to say: That he the said Ernest Sureau Lamirande did commit the crime of forgery by having, in his capacity as cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the said Bank, and thereby defrauded the said Bank of the sum of seven hundred thousand francs. The deponent, Edme Justin Melin, doth depose and say as follows:—

I produce the deposition of Henri Marie du Bois de Jansigny, Inspector of the Bank of France, residing at Paris, in the Empire of France, taken at the tribunal of Poitiers, in the office of the *Juge d'Instruction* on the second day of April, one thousand eight hundred and sixty-six. This deposition is marked with the letter C.

I know the signature of Monsieur Dubois, Principal Officer of the Court of Chancery, that of Monsieur Baroche, Minister of Justice in France; that of M. Drouyn de l'Huys, Minister for Foreign Affairs in France. The signatures affixed to the documents produced as aforesaid are certainly the signatures of the said Dubois, Baroche and Drouyn de l'Huys. I am familiar with the signature of Mr. Dubois, as I have often seen him write in my presence. I make oath that the signature affixed to the document is his. As to the others, I never saw them write their names, but I have often had in my hands documents and official writings signed by them.

And further the deponent saith not, and the foregoing being read to him, hath signed.

(Signed,) E. J. MELIN.

Sworn before me at Montreal, this four-
teenth day of August, one thousand
eight hundred and sixty-six. }

(Signed,) W. H. BRÉHAUT, P.M.

The foregoing deposition having been made and read in the presence of the prisoner, Ernest Sureau Lamirande, he was asked whether he had any questions to put the witness, and he made answer, by his Counsel, Mr. Doutre, that he had none,

(Signed,) W. H. BRÉHAUT, P.M.

Montreal, 14th August, 1866.

A true Copy.

W. H. Bréhaut, P.M.

C.

TRIBUNAL OF POITIERS, } The second day of April, one thousand eight
Office of the *Juge d'Instruction*. } hundred and sixty six.

Before me, Alexandre Henri Jolly, Juge d'Instruction of the arrondissement of Poitiers, Department of Vienne, in my office at the Palais de Justice of Poitiers, assisted by Gustave Poncin, sworn Clerk.

Appeared, at my invitation, the witness hereinafter named, to whom I communicated the facts in relation to which he was called upon to testify.

The said witness having been introduced, out of the presence of the accused, and having been sworn to tell the whole truth and nothing but the truth, and required by me to state his name, age, profession and place of residence, whether he was a servant, relative or connection of the accused and in what degree, made answer and deposed as follows:—

DuBois de Jancigny, Henri Marie, aged 31 years, Inspector of the Bank of France, residing at Paris.

I was sent by the Governor of the Bank of France to enquire into the facts notified by the Director of the Poitiers Branch, in his despatches of the evening of the 13th March. These despatches notified the Bank Managers of the flight of Lamirande, cashier of the said Branch, and of a deficit in specie of the value at the first moment of 190,000 francs. I reached Poitiers on Wednesday 14th March, at 5 P.M., and at once went to the offices of the Branch Bank, where Mr. Bailly, the Director, Mr. DeGretry, one of the Inspectors, and several of the *administrateurs* were completing the examination of the specie safe and

auxiliary cash, commenced the evening before. All attention was at that moment centred on the current cash, from which the Cashier drew at will for the requirements of the business, and the only division of which he has entire control, inasmuch as the Director has no key for that division.

Besides the outer doors which protect it, this iron safe is divided into three compartments, one above the other, and each closed by a little shutter also of iron, and furnished with a special lock. Thus you have the principal keys, namely, those of the outer doors, and three different keys for each of the outer compartments.

Now Lamirande, when starting, had taken care to leave with Mr. Queyriaux, book-keeper of the Branch, the keys required to open two of these compartments; the middle one containing a supply of notes of all denominations and specie sufficient to meet the needs of the business, and the lower one used for keeping securities upon which advances had been made, and commercial paper constituting the portfolio of the Branch. But the most essential key, that of the upper compartment containing the bulk of the notes and 17 bags of gold of 20,000 francs each, had not been found. This was certainly a very serious point as matters then stood, and gave rise to painful surmises in the minds of all. Fears increased as the extent of the specie deficit became known. For my own part, from the moment when I arrived and found that Lamirande had been forty-eight hours gone and that he had taken the precaution to leave all the keys except that of the very compartment containing the reserve notes amounting as they should to little short of 500,000 francs, I was convinced that the reserve had disappeared, and that Lamirande had taken all he could.

I had the door of the compartment forced open before the Director and the majority of the *administrateurs*, and we found that in truth all had disappeared save 40,000 francs, in notes of 100 francs, and the 17 bags of gold of 20,000 francs which appeared to be intact.

Thereupon resuming the work commenced by the Director, assisted by the Ministers of his Council, I engaged in an examination of the specie safe, the auxiliary cash and the current cash. This examination was minutely conducted by me in presence of the Director, and with the assistance of the porters who weighed before my eyes all the gold and silver specie contained in the safe, as well in the auxiliary as in the current cash. I, myself, counted all the notes.

The balance sheet of the evening of the 12th March, the last Lamirande made and which is signed by him, could no longer tally with the cash in hand at the moment of my arrival on the evening of the 14th, inasmuch as notes and specie had been paid out and received during the days of the 13th and 14th. In order to ascertain rationally and with certainty the amount of the deficit, I was therefore compelled to take account of the business done on those two days, and found that, on the evening of the 14th the safes should have contained eleven millions two hundred and sixty-one thousand five hundred and thirty-three francs nine centimes, whereas in reality the sums I had found in notes, gold, silver and copper, the whole belonging to the Bank of France, amounted only to ten million five hundred and fifty-seven thousand two hundred and fifty-seven francs fifteen centimes, which constituted a total deficit of seven hundred and four thousand two hundred and seventy-five francs ninety-four centimes; namely, 219,004 francs, 30 centimes, missing in specie in the safe, and 485,271 francs, 64 centimes, missing in the current cash, the latter sum almost all in notes.

Question.—The questions about to be put to you are certainly not caused by any suspicion attaching to the Director; Mr. Queyriaux, the chief accountant, also enjoys an unblemished reputation; but you have just said what is easily understood, that you were not able to make out the state of the cash except as it was the moment of your arrival; now during the days of the 13th and 14th, Mr. Queyriaux mixed the funds he received with the funds he took from the deficient cash of the Cashier Lamirande; moreover, the two keys of the safe appear to have been from the evening of the 13th until the 14th at 4 o'clock, in the same hands, contrary to the rules; if the accused were present could he not throw back upon others a portion of the responsibility now laid upon him, and could you furnish us with the means of meeting that line of defence?

Answer.—The plea would have no value whatsoever in my opinion. I admit that, strictly speaking, it is possible to say that, on the morning of the 13th, Mr. Queyriaux availing himself of the funds placed at his disposal by delegation of the Cashier, may have

abstracted from the said funds some notes of one hundred and fifty francs, inasmuch as it was he alone who checked that portion of the current cash which Lamirande left him. But I meet this suspicion first, by Mr. Queyriaux's well-known honorable character, and next by the fact of the danger to which he would have exposed himself by diverting any of the cash. The Cashier had announced his return to make up his cash, and every one expected it. It was not until after four o'clock, that is to say, when business had ceased, that the conviction gained ground that Lamirande had fled.

Moreover, the essential thing in such cases is to have an exact starting point to serve as the basis of all operations, whatever may be their importance or their duration. I cannot assure you that Mr. Queyriaux counted all the notes and all his specie on the morning of the 13th, inasmuch as I was not there, but I can state that that officer handed me a statement, dated on the morning of the 13th, with details of the different denominations of notes, and shewing also the number of bags of gold and silver, as well as the gold and silver change in rouleaux and loose. Therefore, in my opinion, the examination of the moneys left at Mr. Queyriaux's disposal was made by him, if not rigorously, at least on a very close approximation, and while it may be true that the funds used in the operations of the 13th and 14th were drawn from or paid into a deficient cash, it is wrong to fancy that there could have been any difficulty or confusion whatsoever in the handling of the funds, inasmuch as the payments and receipts are set forth in the most concise and the clearest manner in authentic entries.

As regards the keys, the objection seems to me to be no better founded. I ascertained what occurred with reference to the duplicate key which opens the auxiliary cash and the safe, and I found by the evidence of Mr. Bailly, of Mr. Queyriaux, and of the porters of the Branch, that on Tuesday evening the key of the door leading to the auxiliary cash and to the safe had been locked up by Mr. Bailly, in the lower compartments of the current cash of which Mr. Queyriaux, Cashier *ad interim*, had taken the key, and that Mr. Bailly the holder of the other key which opens the auxiliary cash and the safe, had moreover shut the outer doors which cover all the compartments of the current cash and had kept the second key.

In this way, Mr. Queyriaux had one of the keys of the three divisions of the cash and Mr. Bailly the others. The rule had therefore been strictly observed.

Question—You know that more than 400 bags of 1000 francs were found tampered with in the safe. Pieces of silver had also been substituted in the sacks of gold; state your opinion as to the manner in which the change was effected.

Answer.—It is impossible for me to admit that the alterations in the money bags were effected in the safe. It was necessary to have the bags a long time at one's disposal in order to empty them partially and clip them, and Lamirande was never left long enough alone in the safe to perform that operation. All the frauds must have been perpetrated in the cash-room, where Lamirande breakfasted every day. He had then full time to prepare his bags, as the book-keeper went out to breakfast at the same hour, and the porters never returned before one P.M.

The Director's office is separated from the cash-room by two large apartments, he could therefore hear the Director coming and hide.

He was also warned by the noise of footsteps, and of the entrance door which it was necessary to open when any one went to his cash-room to pay or receive. There was therefore nothing to prevent him from making these substitutions in his cash-room.

I believe, moreover, that it was easy for him to have the bags so tampered with removed to the safe or to the auxiliary cash. He often helped in carrying the bags, which was the exclusive duty of the porters. It was also in his power while transacting business in the safe, to put in his pocket a bag prepared beforehand, and containing silver coin, and substitute it in the safe for an untouched bag containing 10,000 francs in gold. I convinced myself of the possibility of this by going down into the safe with a bag in my pocket and going back with another containing 10,000 francs in gold.

As regards the date of the embezzlements to which you call my attention, I believe that the embezzlements of silver are far anterior to those of the gold. Thus the altered bags were in the sacks which had not been used for several years for the transmission of funds. The cloth was rotten, and it was impossible to open them and make them up again. Probably the bags of gold were tampered with by him only when he found it was

no longer possible to tamper with the silver. The bags of silver were the first tampered with, and probably four years ago. It is not nearly so long since the bags of gold were first tampered with.

Question.—Were the books kept by Lamirande regular and up to date? *Ans.* There was great disorder in all his accounts, I mean in an administrative sense, for the irregularities are only of a formal character. Lamirande should have kept a book intituled, “Journal de Caisse,” of which the pages are numbered and signed, and which should be checked every evening, or at latest on the following morning. Cashiers usually keep a blotter, which is simply a provisional cash book, and which they afterwards copy into the Journal, in order that the latter may be more neat. Now it was Lamirande’s duty to make this copy every evening, and he had not done it since the month of October last, the date of the inspector’s visit. What I have stated shews that the misappropriations of which Lamirande is accused cover a period of three or four years. He must each day, during these three or four years have furnished a false statement, each statement being attested by his signature, which seems to constitute so many forgeries in bank entries.

The above having been read, witness persisteth therein, and hath signed with us and the clerk.

The present copy transcribed on eight pages, and certified exact by us, the undersigned, Juge d’Instruction of the Arrondissement de Poitiers.

Poitiers, 27th April, 1866.

(Signed,) JOLLY.

[Seal.]

Examined for the legalization of the signature of M. Jolly, above.

Paris, 30th April, 1866.

[Seal.]

By delegation of the Keeper of the Seals, Minister of Justice, and Worship.

Le Chef de Bureau,

(Signed,)

CH. MAURAT-LAROCHE.

The Minister of Foreign Affairs certifies as genuine the signature of M. Ch. Maurat-Laroche.

Paris, 30th April, 1866.

[Seal.]

By authority of the Minister for the Sous-Directeur, Chef de la Chancellerie.

(Signed,)

DUBOIS.

[Seal.]

Examined at the United States Legation at Paris, 1st May, 1866.

Good for the legalization of the signature M. Dubois hereunto.

(Signed,)

JOHN HAY,
Secretary of Legation.

[Seal.]

We, Keeper of the Seals, Minister, Secretary of State, of Justice and Worship, certify to be true the signature of M. Jolly, Juge d’Instruction of the Tribunal of Poitiers, the said judge being empowered, under the laws of the Empire, to receive depositions and administer oaths to deponents.

Paris, 26th June, 1866.

(Signed,)

V. BAROCHE.

[Seal.]

We, Minister, Secretary of State, Department of Foreign Affairs of France, certify as genuine the signature of Monsieur Baroche, Minister, Secretary of State, at the Department of Justice and Worship of France.

Paris, 28th June, 1866.

The Minister, Secretary of State, Department of Foreign Affairs of France.

(Signed,) DROUYN DE L’HUY.

LEGATION OF THE UNITED STATES,
Paris, Empire of France, 29th June, 1866.

I, John Bigelow, Envoy Extraordinary and Minister Plenipotentiary of the United States to the Empire of France, do hereby certify that the foregoing deposition is legally and properly authenticated, so as to entitle it to be received as evidence by the tribunals of this country, as prescribed by the Act of Congress, approved June 22, 1860.

[Seal,]

(Signed,)

JOHN BIGELOW.

True copy

W. H. Brehaut, P.M.

PROVINCE OF CANADA, }
District of Montreal. }

POLICE OFFICE.

The Deposition of Abel Frederic Gautier, Consul General of France for the British Provinces of North America, residing at the City of Quebec, in the District of Quebec, taken under oath this 14th August, 1866, at the Police Office in the Court House in the City of Montreal, in the District of Montreal aforesaid, by the undersigned, William H. Brehaut, Esquire, Police Magistrate in and for the District of Montreal, in presence of Ernest Sureau Lamirande, late of Poitiers, in the French Empire, who now stands accused before me upon a complaint made before me under oath, under the provisions of the treaty between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the French, and of the Statutes in such case made and provided, of having committed at Poitiers, in the French Empire, the following crime, mentioned and provided for by the said treaty between Her Majesty the Queen and the said King of the French, namely :—

That the said E. S. Lamirande did commit the crime of forgery, in that, in his capacity as Cashier of the Branch of the Bank of France at Poitiers, he did make false entries in the books of the said Bank, and by that means defrauded the said Bank of the sum of seven hundred thousand francs.

The deponent, Abel Frederic Gautier, deposeth and saith :

I am the sole agent of the French Government in the five British Provinces of North America. Having examined the document marked C, I declare that the signature Drouyn de L'Huys is that of the Minister of Foreign Affairs of France, head of the department with which I am connected. Judicial documents generally are not signed by the Minister himself, it is an exception, and in order to give it additional importance, that the Minister of Foreign Affairs has signed this document.

The signature of Mr. Dubois is also quite familiar to me, and all our foreign agents are instructed to legalize it. I know the signature of Mr. Bigelow, Minister of the United States in France. I now produce a document marked D, at foot of which is affixed the signature of Mr. Dubois. I acknowledge it to be perfectly authentic, and I am prepared to certify to the signature of Mr. Drouyn de L'Huys and to that of Mr. Dubois, officially, and to affix my seal thereto. The foregoing relates to the two documents produced.

And further deponent saith not and hath signed, the foregoing deposition having been previously read to him.

(Signed,)

FRED. GAUTIER.

Sworn before me, at Montreal, }
this 14th August, 1866. }

(Signed,) W. H. Brehaut, P.M.

The foregoing deposition having been made and read in the presence of the prisoner, Ernest Sureau Lamirande, he was asked whether he had any questions to put to the witness? And he made answer that he desired to put to him the following questions by his Counsel, Mr. Doutre :—

Question.—Where and how are the functions you discharge in Canada defined? *Ans.* They are defined by hundreds of dispatches, instructions and circulars transmitted to me by my Department.

Question.—What difference is there between the functions of a Consul General and those of a diplomatic Agent? *Ans.* Diplomatic agents are charged with the political relations between two countries. It is they who conclude and sign treaties, and as I have just said everything connected with the political relations of the country where they reside with France. Consuls General have nothing to do with such questions, their duty is merely to keep their government advised of the state of affairs in the country where they reside, and to lend the aid of their official position to French interests.

Question.—After what you have stated do you consider that you are here a diplomatic agent of the French Government? *Ans.* No, and I have never assumed that title.

Question.—Do you know at whose instance the Governor General issued the warrant in the hands of the Police Magistrate before whom we are proceeding at this moment? *Ans.* At mine.

Question.—Was the extradition of the prisoner demanded of His Excellency the Governor General by any representative of the French Government other than yourself? *Ans.* No, not to my knowledge.

Question.—How did His Excellency's warrant reach W. H. Brehaut, Esq., Police Magistrate, before whom we are proceeding? *Ans.* The warrant was addressed to me to Quebec by the Provincial Secretary. I received it on the 3rd August, and as I had then learned the arrest of the prisoner I brought it to Montreal myself and gave it to Mr. Pomerville to use it as he might think proper. The warrant now shewn me is precisely that which was sent me by the Provincial Secretary.

Question.—Have you ever seen Mr. Drouyn de L'Huys, Minister of Foreign Affairs in France, Mr. Dubois, Chef du Bureau de Chancellerie, referred to in your examination in chief, and Mr. Bigelow, Minister of the United States in France, sign their names?

Ans. No, but I can produce twenty despatches sent to me personally by Mr. Drouyn de L'Huys; M. Dubois' signature has been officially transmitted to me so that I can certify to it under any circumstances.

The prisoner declared that he had no further questions to put to deponent, whereupon the examination was closed, and the foregoing having been read, deponent hath signed.

(Signed,) FRED. GAUTIER.

Taken and acknowledged before }
me, this 4th April, 1866. }

(Signed,) W. H. Brehaut, P.M.

(A True Copy.)

W. H. Brehaut, P.M.

D

PROCES VERBAL OF SEIZURE OF "PIECE DE CONVICTION."

The 29th March, one thousand eight hundred and sixty-six.

I, Alexandre Henri Jolly, Juge d'Instruction of the *arrondissement* of Poitiers, assisted by M. Gustave Poncin, my Clerk.

In view of the proceedings had against Lamirande, accused of embezzlement to the prejudice of the Poitiers Branch of the Bank of France.

Whereas it appears from the *Instruction* that the accused, in his capacity of cashier, signed each day at 4 o'clock, sometimes at 5 o'clock, after the close of the operations of the Branch, a statement of the situation of the cash;

That on the 12th March, 1866, he signed a statement from which it appeared that the safe contained eight hundred and fifty bags of silver of 1,000 francs each, and thirty-six bags of gold of 10,000 francs each; that the auxiliary cash contained, in notes and specie, eight millions eight hundred and ten thousand and eleven francs, and that the current cash contained in bills 832,300 francs, and in specie 503,709 francs, 54 centimes;

Whereas abstractions were for a long time committed in the safe and previous to the preparation of the statement, of which an analysis has just been given, in the current cash,

and whereas the accused did as a consequence in his capacity as Cashier, alter the accounts of the Bank, or affirm, by his signature a falsified statement, and it is in consequence important to seize the statement in question as documentary evidence. We proceeded as has been stated, to the Branch of the Bank of France, and we received from the hands of Mr. Bailly, Director, the statement just spoken of, which was signed, *ne varietur*, by him and by our Clerk.

We declared the said document seized, to be deposited in the office of the Tribunal, and serve *ce que de droit*.

And the foregoing having been read, we have signed with the Director and our Clerk as follows: Bailly; Jolly, Juge de Instruction; Poncein, Clerk.

The copy is certified in conformity with the original by the undersigned Juge d'Instruction.

The present copy, transcribed on one page and a half, is certified exact by the undersigned, Juge d'Instruction of the arrondissement of Poitiers.

Poitiers, 26th April, 1866.

[Seal.] (Signed,) JOLLY.

Seen for legalization of the signature of Mr. Jolly, herein attached.

Paris 30th April, 1866.

By delegation of the Keeper of the Seals, Minister of Justice and Worship.

[Seal.] Le Chef de Bureau,
(Signed,) CH. MAURAT-LAROCHE.

The Minister of Foreign Affairs certifies as to the signature, Ch. Maurat-Laroche.

Paris, 30th April, 1866.

[Seal.]
(Signed,) DUBOIS.

Seen at the Legation of the United States of America at Paris, 1st May, 1866. Good for the legalization of the signature of Mr. Dubois herein.

(Signed,) JOHN HAY,
Secretary of Legation.

[Seal.]
A true copy,
W. H. Bréhaut, P.M.

PROVINCE OF CANADA, }
District of Montreal, }
City of Montreal. }

POLICE OFFICE.

Ernest Sureau Lamirande, heretofore of Poitiers, in the French Empire, now in the City of Montreal, in the said District, was accused this day before the undersigned, W. H. Bréhaut, Esquire, Police Magistrate, in and for the District of Montreal, the fifteenth day of August, in the year of Our Lord 1866, of having, the said E. S. Lamirande, on the 12th day of March last, at Poitiers, in the French Empire, committed the crime of forgery, in that he in his capacity as cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the said Bank, and by that means defrauded the said Bank of the sum of 700,000 francs in contravention of the law, and the said accusation having been read to the said E. S. Lamirande, and the witnesses in the matter, Edme Justin Melin, Louis Léonce Coudert, Frédéric R. Coudert and Abel Frédéric Gautier having been interrogated separately in his presence, I addressed the said E. S. Lamirande, as follows:—
“Having heard the evidence, do you desire to say anything in reply to the accusation? You are not obliged to answer to it unless you are quite willing; but everything you say will be put in writing, and may be used as evidence against you on your trial.” Thereupon the said E. S. Lamirande spoke as follows: “My Counsel have advised me to say nothing.”

And further the said accused saith not and hath signed, the foregoing having been read in his presence.

(Signed,)

E. S. LAMIRANDE.

Taken before me at the City of Montreal, }
the day and year hereinabove named. }

(Signed,)

W. H. BRÉHAUT, P.M.

A true copy,

W. H. Bréhaut, P.M.

\$2,000 REWARD

Will be paid for the re-arrest of one Ernest Sureau Lamirande, who escaped from the custody of a Deputy Marshal of the United States, on the 3rd of July, instant.

He is of a dark bilious complexion, about five feet six inches high, slight build, very dark eyes, black hair, slightly touched with gray; had one tooth decayed and partly broken on the left side of the upper jaw; wore a full beard at the time of his escape, and was dressed in black; speaks no English.

Apply to Coudert Brothers, No. 49, Wall Street, New York.

A true copy,

W. H. Bréhaut, P.M.

PROVINCE OF CANADA, } Defence.
District of Montreal. }

POLICE OFFICE.

The Deposition of Charles L. Spilthorne, Esquire, Advocate, of the City of New York, in the State of New York, one of the United States of America, now in the City of Montreal, in the District of Montreal, taken under oath this 20th day of August, A.D., 1866, at the Police Office, in Court House, in the City of Montreal aforesaid, by the undersigned, William H. Brehaut, Esquire, Police Magistrate, in and for the district of Montreal, in presence of Ernest Sureau Lamirande, late of Poitiers, in the French Empire, who is now accused before me on an information laid before me on oath, in virtue of the provisions of the Convention made between Her Majesty the Queen of Great Britain and Ireland, and His Majesty the King of the French, and of the Statutes in such case made and provided, of having committed at Poitiers, in the French Empire, the following crime, mentioned and provided for in the said Convention between Her Majesty the Queen and the said King of the French, namely:—

That the said Ernest S. Lamirande did commit the crime of forgery, in that in his capacity of Cashier of the Branch Bank of France, at Poitiers, he made false entries in the books of the said Bank, and by that means defrauded the said Bank of the sum of seven hundred thousand francs.

Deponent, Charles Spilthorne, deposeth and saith as follows:—

I was employed as one of the advocates of the prisoner at New York, when his extradition was there demanded, from the commencement of proceedings for his extradition in April last, until the date of his departure from New York, which I understood to be the 3rd July last. The document produced, marked B, being shewn to me, I cannot well say whether I saw that document in New York, amongst the papers produced before Commissioner Betts, before whom proceedings for the extradition of the prisoner were being had.

Question.—Have you seen the document of which the paper marked B purports to be a translation? Ans. I saw a document on the table near which Mr. Betts the Commissioner sat, relating to the matter, which it was pretended was a copy sent from Poitiers in France, of a pretended writ, from the Board of Indictment of Poitiers. The document was written in French. It was, I think, then called *l'Acte d'Accusation*, indictment in English, So far as I can remember it must have been an indictment (*arrêt de renvoi*). It is very

difficult to say whether it was the same document which has been designated *arrêt de renvoi* before this Court, and of which it has been pretended that the document B was a translation. There was but one document of this kind produced before Commissioner Betts at New York, and that must be the one of which it has been pretended that document B was a translation.

Question.—Was that indictment—that in the French language—admitted at New York by the Commissioner, as authentic conformably to the French law or to the Extradition Treaty?

(Objected to on part of the Crown. Objection sustained.)

Question.—State what you know of document B, and of the document of which it purports to be a translation?

Answer.—It had been announced that there were to be communicated to Mr. Betts, to be produced before Mr. Betts' Court, a certain number of documents, amongst which was said to be this pretended indictment, of which translations were said to have been made, these documents were marked by Mr. Betts, *ne varietur*, for I must explain, that although a judge marks a document, it is not a proof of its reception, and it is in fact the habit in New York to have them marked before they are offered in evidence. There was a pretended translation of the said indictment, in which translation were several blanks, and it was remarked that that translation could not be received, inasmuch as it was not intelligible. The prisoner's Counsel then objected to the admission of these documents on the part of Commissioner Betts, and thereupon it was decided by the Commissioner that the document should remain in the Court, saving any subsequent objection, for verification. We then asked for delay, and as the prosecution were anxious to push on the proceedings, Mr. Betts offered to let me take the pretended indictment and let me examine it well so as to compare it with the translation. I do not very well remember whether I took the document with me or not. At the next hearing Mr. Lamirande had left; nothing more was then said, but none of then documents there produced, the pretended indictment and the pretended translation included, were definitively admitted or received as duly authenticated evidence by Mr. Betts. Mr. Betts had already previously rejected the copy of the deposition of the Director of the Bank of Poitiers as not being duly authenticated, and the indictment as well as the other documents produced, were authenticated exactly as the document which had been rejected. Thus the copy of the indictment received from France as well as the pretended translation were not admitted as evidence, the translation was declared by the defence incorrect, owing to the blanks found in it, and other terms which appeared to be incorrect. Speaking of the blanks, Mr. Coudert then said he had left the blanks because he had been unable to translate the French terms. No expert was examined for the verification of the translation, as is usually done in New York. As Lamirande was gone, and the affair postponed by Mr. Betts until the 2nd of September following, in the event of his being re-taken, I did not take any further steps in the prisoner's case until I came here. Ten or twelve days ago Mr. Coudert came to my office; he told me he had been to Mr. Betts' office to see if he could not find the pretended indictment which he had sought for in his own papers, and that he had not found it; that he came to see if it were not in my files. I told him I was on the point of removing, and that I had put my papers into trunks at home, where Lamirande's papers were. I told him I did not well know whether I had had the document, but that my impression was that I no longer had it in any case, because it seemed to me I had seen it at the Court at the last hearing. Mr. Coudert asked me to go at once to my house to see. I could not do so, as I had several clients come to consult me, who were hurried. I said that I would see, that I would examine my papers and I would tell him the result on the following day, and that if I found the document and could hand it over to him I would do so. I added that he would do well to go to the house of Mr. Betts himself, who was in the country, who had already several times taken the papers with him to his house, and that if I did not find it it must be there. Mr. Coudert answered me that he had no time, and that he was convinced I should find it. I made search everywhere and did not find the document. On the following day I went to see off a Judge of the Superior Court who was going to England, and I sent word to Mr. Coudert by one of my clerks that I had not found the document, that I would make a further search, and that I would hand it to Mr. Betts, to whom alone I could give it, for Mr. Coudert had no authority, and had shewn me none

for obtaining the document in case I should find it. I should have been wanting in every duty in handing it over to him. I went of my own motion to Mr. Betts' Court to see if he were there, and to ask him if he had the document, and in case I found it what I should do with it. He was not there, it was said that he was in the country and would not be back before September next. Mr. Coudert manifested the intention of bringing the document here to Montreal, and of thus taking it from the Court to which it belonged, and I should have rendered myself, in case I had it, an accomplice in crime, by handing over for that purpose the document to Mr. Coudert. I could give it up to no one but Mr. Betts, if it had been in my possession.

Question.—Do you know French law in general, and specially in so far as regards the mode of authenticating documents in France?

Objected to by the Crown. Objection overruled.

Answer.—Yes. I am a Frenchman by birth, I made part of my course of law in Paris. I have acted in many cases in France. I was admitted to the bar in Belgium, where I practised for over twenty years as an Advocate. With some few exceptions, the French and Belgian codes are the same.

Question.—Is the document marked B so authenticated as to justify the arrest of the delinquent therein named in France, on the same accusation? *Ans.* In France delinquents are arrested solely on the originals. If the originals are wanting, there is a clause in the code of criminal indictment which provides for the case. These provisions are contained in articles 521, 522, 523 and 524. Article 521 contains the following provisions: "Whenever, by the effects of a fire, of an inundation, or of any other extraordinary cause, the originals of writs issued in criminal or correctional matters and not yet executed, or in processes as yet undecided, shall have been removed, carried off or lost, and it shall not have been possible to recover them, the matter shall be proceeded with as follows:

"Article 522.—If a duplicate or authentic copy of the writ exist, it shall be deemed an original, and in consequence placed in the place set apart for the deposit and conservation of writs. To that end any public officer, or any individual being the depository of a duplicate or authentic copy of such writ is bound under pain of arrest to return the same into the Court whence it issued, on being ordered so to do by the President of the said Court: Such order shall serve him as a discharge as to parties having interest in the document. The depository of such duplicate or authentic copy of the original destroyed, removed or lost, shall be entitled, on returning the same into the place of public deposit, to receive a duplicate thereof without cost.

"Article 523.—When in any criminal matter there shall no longer exist a duplicate or authentic copy of the writ, if the decision of the jury still exist in the original or an authentic copy, after a declaration to that effect, the Court shall proceed to a new judgment.

"Article 524.—When the declaration of the jury cannot be presented, or when the case shall have been judged without a jury, and no other, in writing, exists, the Instruction shall be re-commenced from the point at which the documents shall be found to be wanting as to the originals, duplicates and authentic copies."

Question.—How must the depositions of witnesses be signed in order to possess any value in France?

Objected to by Crown. Objection overruled.

Answer.—Under Articles 75 and 76 of the Code of Criminal Instruction, the following formalities are requisite:—"Article 75.—Witnesses shall make oath to tell the whole truth and nothing but the truth. The Judge of Instruction shall ask them their names, surnames, age, condition, profession, residence; whether they are servants, relations, or connexions of the parties, and mention shall be made of the questions asked and of the answers of the witnesses.

"Article 76.—The depositions shall be signed by the judge, by the Clerk, and by the witness, after the same shall have been read, and the witness shall have declared that he persists therein. If the witness is unwilling or unable to sign, mention shall be made thereof. Every page of the scroll of information shall be signed by the Judge and by the Clerk."

Article 74 of the same code enacts as follows: "They (meaning the witnesses) before

"being heard, shall present the summons served on or delivered to them to deliver their testimony, and mention shall be made thereof in the *procès-verbal*." I ought to add that the witnesses here meant are those heard before the Judge of Instruction.

Question.—According to your knowledge of French law, could a bailiff or other officer of the executive power arrest a delinquent in France, in virtue of a document such as that marked B.

Objected to by the Crown Prosecutor, and his objection sustained.

Question.—Will you cite the text of Article 147 of the Penal Code of France mentioned in the document B? *Ans.* Article 147 of the Penal Code of France says: "All other persons who shall have committed forgery in authentic or public documents in writing, or in commercial or Bank transactions, either by counterfeiting or altering writings or signatures, by fabrication of agreements, provisions, obligations, or discharges therefrom, or by the insertion thereof after execution of such Acts, or by the addition or alteration of clauses, declarations, or matters of fact, intended to be admitted and recorded in such Acts, shall be punished by hard labor for a term."

Article 148.—In all the cases mentioned in this paragraph, the person who makes use of forged documents shall be punished by hard labor for a term.

Question.—Do articles 379, 386, 408, and 164 of the Penal Code of France relate to the crime of forgery? *Ans.* No, Article 379 relates to theft; article 386 also relates to theft, with aggravating circumstances. Article 408 relates to embezzlement, article 164 relates to an accessory punishment for the crime of forgery.

Question.—According to your knowledge of French law, does the crime of forgery result from the facts recorded as follows in the document B. page 73, "With having at Poitiers, on the 12th of March, 1866, fraudulently inserted on the balance sheet signed by him, which it was his duty to establish and to certify every day in his capacity of Cashier of the Branch of the Bank of France, in order to state the cash account of said Branch the false declaration that the cash account on said day amounted to eleven millions, four hundred and forty thousand, five hundred and fifty-six francs, eighty-four centimes, while it was in reality inferior to that amount by all the sums abstracted or embezzled by him, and thus fraudulently altered the declaration and facts which this balance sheet was to contain and establish?"

Question.—Have you had with Mr. Edme Justin Melin, Agent of Police, who made a deposition in this matter, any conversation relative to the conversations held by him with the prisoner at New York on the subject of the charge of forgery brought against the prisoner? If you have, repeat what he said to you? *Ans.* Yes, I had, this is what I know relative to that. Mr. Melin, I myself, and Mr. Betts were together at Delmonico's, I remarked to Mr. Melin that the prisoner had done wrong in leaving England, as being there he could not have been delivered up for any crime but murder, forgery, and fraudulent bankruptcy, and that certainly he could not be charged with any of those. Mr. Melin said that in fact none of these charges could exist against the prisoner, but that he would have found a way to get Mr. Lamirande in England, that he knew his trade pretty well, that he was a man-catcher, that he would follow his game by all kinds of means, and that he would bring it to the spit (*qu'il le mangeait*) meaning by that, that he would get his reward. Mr. Lamirande loudly protested that he had never committed an act of forgery. When the charge of forgery was first broached in Court before Mr. Betts, Mr. Lamirande protested in the most energetic manner that it was infamous, that he had never committed forgery, and that it could never be proved against him. This he said in the presence of Mr. Melin and many others. When the pretended indictment was produced, Mr. Lamirande loudly declared that he could not believe his eyes, and I for my part added, that I did not think there existed in France magistrates capable of finding an act of forgery in the whole affair, quite the contrary, unless the intention was to play in this Lamirande business the same trick which was played nine years before in the matter of Carpenter, Grelet, Parrot and others, in which I was counsel, and Mr. Betts, Commissioner, in which not being able to obtain extradition on the charge of *burglary*, the prisoners had been charged with forgery in order to obtain their extradition with greater certainty, whereupon the extradition of Grelet had been secured, though he had never been either accused or convicted of forgery in France, but convicted of a breach of confidence, which was no ground of extradition. I

requested Mr. Betts to pay particular attention to this point, if this charge was brought before him, the more especially, I said to Mr. Betts, as the charge of embezzlement on the ground of which the extradition of Mr. Lamirande was demanded, was in the eyes of American law, no ground of extradition of a person in Mr. Lamirande's position. Thereupon Mr. Coudert, who has made a deposition here, and who was the principal counsel in the management of the affair, declared that he understood my meaning, and that it was by no means his intention to claim the extradition of Mr. Lamirande on the charge of forgery, and even that he expressly renounced such a plea. It was understood that no mention should be made of forgery. Mr. Melin was present and heard the protest of M. Lamirande. An ex-attorney of the French King was present, and gave his evidence in the affair on the part of the defence, and declared that he could not understand how such a decision could have been come to by French magistrates in so clear a case, in which forgery was impossible. Mr. Melin himself said, like the good fellow he is, that it was absurd, that there was no forgery in the business.

Question.—Are you aware that after the copy of the indictment of which the paper B is assumed to be a translation, arrived at New York, Mr. Melin had any conversation in the prison with the prisoner, and do you know that the prisoner may have had such conversation with Mr. Melin on the subject of forgery, after the conversation which you have just repeated? *Ans.* As to the possibility, I can say nothing, but as to the moral meaning of what passed I can explain. When proceedings were commenced before Mr. Betts in the month of April, there was no question of an indictment for forgery, nor of forgery at all; no one had uttered a word about it. So far from it that in the deposition of the Director of the Bank at Poitiers (who was with M. Lamirande at Mr. Betts' with a warrant ascribed to Jolly, Judge of Instruction at Poitiers, as also in a complaint entered before the Procureur Imperial at Poitiers, and in a complaint of the French Consul General at New York, all lodged with Mr. Betts for the arrest of Mr. Lamirande, it was expressly declared that though the Bank might be defrauded by the alteration of writing, such was not the case with Lamirande. In the warrant issued by the said Judge of Instruction, as also in the complaint entered before the Procureur Imperial, not a word was said about forgery, but the arrest of Mr. Lamirande was ordered on the mere charge of embezzlement of money, citing articles 379 and 408 of the Penal Code of France which relates only to theft and embezzlement of money. Up to that time nothing had been said to Mr. Lamirande about forgery, for nobody had any knowledge of it. I mean till the time when Mr. Lamirande first appeared before Mr. Commissioner Betts. I and the other legal advisers of Mr. Lamirande then prohibited him from receiving Mr. Melin any more, or speaking to him in private. Mr. Melin himself has declared that Mr. Lamirande refused to receive him again, and our refusal was founded on the fact that Mr. Melin by promises and insinuations had endeavored to draw from Mr. Lamirande admissions unfavorable to his position. Mr. Melin himself admitted to me that he had told Lamirande that if he would confess everything and go back (to France), he would be punished more lightly; that his father and his relations were in prison at Poitiers; but Mr. Melin added, that he said this out of kindness towards the prisoner.

The deponent saith nothing further for the present. His deposition is discontinued till to-morrow at eleven o'clock forenoon, and the foregoing being read hath signed.

(Signed,)

C. L. SPILTHORN.

Sworn, taken and acknowledged before me at)
Montreal, this twentieth day of August,)
one thousand eight hundred and sixty-six. }

(Signed,) W. H. BREHAUT, P.M.

On this day, being the twenty-first of August in the year of our Lord one thousand eight hundred and sixty-six, again appeared the above named deponent, before the undersigned, W. H. Brehaut, Esquire, Police Magistrate in and for the District of Montreal, and being sworn in presence of the prisoner, Ernest Sureau Lamirande, his deposition was resumed and continued as follows:—

I declare, moreover, as I have before stated and now depose, that it is not true that I have sworn and told the witness Coudert that I would restore the document termed the

indictment if I found it. I never make use of such expressions. This is what I said to him and this only; namely, what I deposed yesterday. Neither is it true, as the same person, Mr. Coudert, deposed, that I asked Mr. Betts for the said document to carry it away with me, and if I did take it away with me, which I do not remember very exactly to have done, it was Mr. Betts himself who delivered it to me voluntarily. So far was I from asking for it or taking it away, that in order to verify the pretended translation, offered by Mr. Coudert, Mr. Clinton and myself prayed that the matter might be postponed, in order to verify the said translation as also the other translations offered with the documents which it was alleged had come from France, including the pretended indictment in Mr. Betts' office, and it was on that occasion and for that reason, that on Mr. Coudert's urging the prosecution of the affair in order not to lose any time, Mr. Betts, unasked, offered me the document to take it home with me, and neither is it true, as Mr. Coudert has alleged in this place, that either he or his brother made the least objection, and I said that I would even prefer a great deal to verify the documents in Mr. Betts' office.

Question.—In the case of a charge of forgery in France, is it necessary, in order to sustain it, that the document alleged to be forged should be produced?

Objected to on the part of the Crown, and the objection sustained.

Question.—Did Mr. Melin, yesterday, after the conclusion of the deposition he had heard you make, speak to you concerning it, and if he did, please to repeat what he said?

Objected to on the part of the Crown, and the objection sustained.

Question.—Did Mr. Melin, yesterday, after the close of your deposition, tell you that you had exactly repeated the conversations you had had with him in New York?

Objected to on the part of the Crown, and the objection sustained.

The Counsel for the prisoner declared that he had no more questions to put to the witness produced by him; the said deposition was read to the deponent, who affirms its truth and hath signed.

(Signed,)

C. L. SPILTHORN.

Sworn, taken and acknowledged before me, at }
Montreal, this twenty-first day of August, }
one thousand eight hundred and sixty-six. }

(Signed,)

W. H. BREHAUT, P.M.

The preceding deposition having been read in presence of the prisoner, Ernest Sureau Lamirande, Mr. Pomerville, counsel for the prosecution, declares that he is desirous of putting to the witness the following questions in cross-examination:

Question.—Did you act in defence of the accused party, Mr. Lamirande, at New York, during the whole continuance of the proceedings for his extradition. *Ans.* Yes:

Question.—Who were acting jointly with you in the defence of the accused party?
Ans. Mr. Clinton and Mr. Stalnecht.

Question.—In how long a time, after the arrest of Mr. Lamirande, were you retained to defend him? *Ans.* From the time of his arrest to the time of his departure, and even on the fifth of July, as I went to the Court, and he was not present. I now recollect that some time previous to his arrest, as a step to his extradition, I had been consulted by him. Lamirande had been arrested on a charge of alleged embezzlement of money, at first in the name of a banker of Paris, from whom it was charged that he had taken the money, and afterwards they proceeded on the same charge, in the name of the Bank of France, from which it was alleged that he had embezzled the same moneys. The brothers Coudert were the Counsel on behalf of the Bank of France, and I had been consulted by Lamirande in the case. This was in the civil proceeding.

Question.—By the answer which you have just given, are we to understand that the accused Lamirande was arrested twice? *Ans.* The accused party, Lamirande, was arrested first, civilly, and subsequently, if I recollect aright, twice. That is to say, he had been arrested in the first instance, and while in prison he received notice that he was arrested again, a second time. I cannot say exactly whether he was arrested twice by civil process, but very certainly he was so arrested once, and it was while he was thus incarcerated by civil process, that an order of arrest was issued against him, with a view to his extradition, on the ground of embezzlement of money from the Bank of France.

Question.—Then it was in the matter of the warrant issued against him for embezzle-

ment of money, and in the process for the extradition of the accused that you acted as Counsel in his defence? *Ans.* I acted as his Counsel both in the civil process, and also in the proceeding for his extradition.

Question.—Tell us in how long time after the arrest of Lamirande you saw him for the first time? *Ans.* He had been under arrest by civil process for some time, when I saw him, and was consulted by him for the first time. Perhaps eight, ten, or fifteen days after [his arrest], perhaps more, perhaps less, I cannot exactly say.

Question.—Is it not true that the demand for the extradition of the accused Lamirande, at New York, was founded on the embezzlement of moneys of the Bank of Poitiers, and on the crime of embezzlement, and on that only? *Ans.* I know of no other [ground of a] demand for extradition against Mr. Lamirande, than that of embezzlement, and I cannot term here, not having done it at New York, the alleged embezzlement, in the French language, a crime either in France or in the United States, but simply an offence in the case of Lamirande.

Question.—How long did the proceedings for the extradition of the accused, Lamirande, continue before Mr. Commissioner Betts? *Ans.* I cannot exactly state the day of the month of April that the proceedings commenced, but it was in the month of April, and they continued to the fifth of July, after the escape of the accused.

Question.—During the course of the enquiry (*instruction*) in the proceedings for the extradition of the accused, Lamirande, is it not true that a certain number of documents were exhibited before Mr. Commissioner Betts, on which he (the Commissioner) wrote his initials? *Ans.* I think there were.

Question.—Observe the document B here produced in this matter and say whether you find written upon it the initials of the said Mr. Commissioner Betts. *Ans.* I see E. A. and B., I cannot certainly make oath that they are the initials of Mr. Betts, but I have my doubts whether they are or not, as it seems to me according to the initials which I have seen of Mr. Betts, (but I have not seen them often) they were more plainly and firmly written, I can give no certain information concerning them.

Question.—Can you make oath that the initials on document B are not the initials of Mr. Commissioner Betts? *Ans.* I can say nothing about it.

Question.—When that document was produced before Mr. Commissioner Betts, did Messrs. Clinton and Stalnecht make any objection? *Ans.* I do not remember that that document was ever produced before Mr. Commissioner Betts, for I never read it or saw it there myself, but I do know that when pretended translations of the document were produced, which Coudert has here termed the indictment, these translations contained blanks as I before said in my first examination, and that Mr. Clinton and I opposed and objected to the admission of them; both of the pretended documents which came from France and of the said translation of the same. As to Mr. Stalnecht, I think he was not in Court, as he did not go there always.

Question.—Do you know the difference between an indictment (*arrêt de renvoi*) and an act of accusation? *Ans.* Yes; the Indictment is rendered by the *Chambre of the mises en accusation* after the instruction and investigation of the charge brought against the accused. When the accused party is present, the Court is generally more circumspect and enters more into details than when he is absent, and when he is absent the inquiry is generally slighter. The act of accusation is a writing made after the indictment which the Attorney General is directed to draw up, and it is upon this act of accusation which is signified (communicated) to the accused party and which is read in the Court of Assizes before the Jury, that the criminal proceeding against the accused party is founded.

Question.—Does not the Indictment contain all the charges laid against the accused? *Ans.* Generally, nevertheless, if other facts come out before the Court of Assizes besides those contained in the Indictment, the Court of Assizes often assumes the right to take cognizance of them.

Question.—Is it not true that at New York during the instruction (investigation) for the extradition of the accused, Lamirande, some French Advocates were consulted, on behalf both of the prosecution and of the defence, relative to the legalization of documents which had come from France and which were exhibited in the proceedings? *Ans.* Yes.

Question.—Is it not the case that despite the opinions expressed by the Defender of the accused Lamirande, the French Advocate who appeared on the part of the defence

declared that the documents produced were sufficiently legalized? *Ans.* If I remember correctly, he declared the contrary—that they were not so.

Question.—Can you swear that that French Advocate examined on behalf of the defence, declared that those documents were not sufficiently legalized to be admitted before the French tribunals? *Ans.* To the best of my recollection he said, that for a legalization to be valid it should contain what M. Merlin sets forth in the *Répertoire de Jurisprudence*; and as they did not contain those requisites, he stated that they were not sufficient as legalization.

Question.—Was the French Advocate consulted on behalf of the prosecution of the same opinion as he of whom you have just spoken? *Ans.* I do not recollect very exactly what he said, but from what I do remember of what he said, being cross-examined, he stated that in France no action could be taken except upon original documents which then did not require to be legalized in their jurisdiction. I should add that his replies were very contradictory, and that Mr. Clinton in pleading, even declared him to have committed perjury. He was a man who did not act as an Advocate, and there were great doubts as to his claims to the designation of Advocate.

Question.—State, under the oath which you have taken, whether it is not true that Mr. Catois, the French Advocate, consulted on the part of the defence, admitted before Mr. Commissioner Betts, in Court, that there were cases in which depositions, legalized in the same way as those produced were received in France?

Objected to on behalf of the defence. Objection overruled.

Answer.—I do not exactly recollect whether he was questioned on that point, but I know well that he said that in criminal cases in France, only original documents could be received, and if they were destroyed or lost, that copies could be admitted only as prescribed by the code of criminal instruction.

Question.—How long before the escape of the accused Lamirande from New York, was the indictment produced before Commissioner Betts? *Ans.* To the best of my recollection, on the Thursday or Wednesday previous.

Question.—Before the production of that indictment before Commissioner Betts, had the question of the accusation of forgery against the accused, Lamirande, been raised? *Ans.* No, not to my knowledge at the hearing.

Question.—How long, after the production of that indictment before Commissioner Betts, did you have it in your possession? *Ans.* I do not remember if I took it with me or not; if I had it with me it was at one of the last hearings of the case.

Question.—Was there any correspondence exchanged between Mr. Coudert and yourself in relation to that indictment? *Ans.* Mr. Coudert wrote me a note the next day, or the next day but one after he came to me to ask for the said document.

Question.—Are you aware that a warrant was issued against you at New York, in relation to the said document, the indictment which has been in question in this affair? *Ans.* I know nothing about it; Mr. Coudert deposed so here.

Question.—As advocate of the accused, Lamirande, you maintained at New York, did you not, that he could not be surrendered? *Ans.* Yes, and I maintain it still.

Question.—Was it not you who gave instructions and furnished information to the defender here of the accused, Lamirande, in relation to the application for his extradition? *Ans.* Yes, I furnished some.

The advocate for the prosecution declares that he has no further questions to put to the witness, this examination is closed, and after reading the deponent hath signed.

C. L. SPILTHORN.

Taken and acknowledged before me, at Montreal,
this twenty-first day of August, one thousand
eight hundred and sixty-six.

W. H. Bréhaut, P.M.

A true copy,

W. H. BREHAUT, P.M.

PROVINCE OF CANADA, }
 District of Montreal. }
 Defence.

POLICE OFFICE.

The deposition of Emile B. Morel, Esquire, Advocate, of the City of New York, in the State of New York, one of the United States of America, now in the City of Montreal, in the District of Montreal, taken under oath on the twenty-second day of August, in the year of Our Lord one thousand eight hundred and sixty-six, at the Police Office, in the Court House, in the City of Montreal, in the District of Montreal aforesaid, by the undersigned, William H. Bréhaut, Esquire, Police Magistrate, in and for the District of Montreal, in the presence of Ernest Sureau Lamirande, late of Poitiers, in the Empire of France, who now stands accused by complaint under oath before me, under the provisions of the treaty between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the French, and of the Statutes made and provided therefor, of having committed at Poitiers, in the Empire of France, the crime mentioned and predicated by the said treaty between Her Majesty the Queen and the said King of the French, that is to say :

That the said Ernest Sureau Lamirande did commit the crime of forgery by having, in his capacity as Cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the said Bank, and by so doing defrauded the said Bank of the sum of seven hundred thousand francs.

The deponent Emile B. Morel deposeth and saith as follows :—

Question.—Were you in any way connected with the prosecution instituted at New York for the extradition of the prisoner, in April, May and June last ? *Ans.* I was Mr. Lamirande's private advocate at New York, but I did not appear in name as one of his defenders before Commissioner Betts. He consulted me about his extradition affair and about other affairs generally. I was present at nearly all the sittings which were held before Commissioner Betts. especially I was present at one sitting. I do not remember if it was the last sitting, or the last but one, before the flight of Lamirande, and at that sitting Mr. Coudert, the Advocate for the prosecution produced a deed, or a pretended copy of a pretended indictment (*arrêt de renvoi*) together with a pretended translation of the said copy. The defenders of the accused opposed the reception of these documents : first, because the pretended copy of the pretended indictment was not duly legalized ; and second, they opposed the reception of the translation because it contained many blanks and was otherwise incorrect and unintelligible. Mr. Betts decided that he would not definitely admit the documents, that he reserved his judgment in that respect. The Counsel for the accused asked for time to examine the said documents and to compare the translation made by Mr. Coudert. Mr. Betts then replied that, as he was desirous not further to prolong the affair by postponements, he requested Mr. Spilthorn to take the document with him, and that in that way the documents could be examined between that time and the following sitting. I did not observe whether Mr. Spilthorn carried away the document or whether he did not. When that pretended indictment assuming to accuse Mr. Lamirande of forgery was produced a universal cry arose on all sides at the absurdity of such an accusation.

Question.—Will you state whether the document produced before Mr. Betts as a translation of the pretended indictment was the same as the document B produced here, and if it was the same whether it was then in the condition in which you find the document B now to be ? *Ans.* I state that I clearly heard Mr. Clinton declare that there were many words untranslated and left blank in the said translation made by Mr. Coudert, with which assertion Mr. Coudert coincided and attributed the circumstance to the impossibility of his translating those words because he did not understand them exactly, and because he could not appreciate their exact value. But with regard to the document B I cannot assert that I have seen it ; consequently, I know not whether it is the same or not. I cannot state positively whether there was a sitting after that at which Mr. Spilthorn was required to take away the translation in order to compare it, but I think there was not. I know that there was a meeting, but there was no sitting in consequence of the illness of one of the advocates. I state nothing positively in this respect.

Question.—Has Mr. Edme Justin Melin expressed, in your presence, what he knew or what he thought of the accusation of forgery, either at New York or here ? *Ans.* Mr.

Melin, like every one else, saw the absurdity of such an accusation; he said that extradition for forgery could not be had; that there was no forgery there. Here, at Montreal on several occasions, he has acknowledged before other persons that all that Mr. Spilthorn had said here was true, and that he had never intended to state in his evidence that Mr. Lamirande had acknowledged himself to be guilty of forgery, that he had only acknowledged himself that he had been accused of forgery.

Question.—Was Mr. Melin a witness at New York? *Ans.* Not that I remember. I do not consider as evidence any affidavits that he may have made, and I do not know whether he did make any. I speak only of oral evidence.

Question.—Was the prisoner accused of forgery at New York, either in the proceedings for his extradition or in the depositions which served as the basis of those proceedings? *Ans.* Before the production of the pretended copy of the pretended indictment, nothing had ever been said about forgery. I have read several depositions, or pretended depositions which were deposited in court, and among others, the deposition of Mr. Bailly, one of the directors, I believe, of the Branch Bank at Poitiers, in which deposition Mr. Bailly stated that embezzlement of money could be effected by means of forgery or alteration in the books, and that such was not the case with regard to Mr. Lamirande. I nowhere saw anything mentioned about false balance-sheets or even, I think, false entries. It is to be distinctly understood that I speak of the documents filed at the court in New York, before the production of the pretended copy of the pretended indictment, for I should not wish it to be said that I contradicted myself. When the pretended copy of the pretended indictment was produced before Commissioner Betts, the prisoner exclaimed aloud that he did not acknowledge himself guilty of forgery, that there was no forgery, and the Messrs. Coudert themselves agreed that there was no ground for a charge of forgery, and abandoned all prosecution in that respect.

Question.—Are you sufficiently acquainted with the conditions of the extradition treaties between France and the United States to say whether forgery is one of the crimes for which extradition can be demanded between those two Powers respectively?

Objected to on behalf of the Crown. Objection over-ruled.

Answer.—Yes, forgery is one of the crimes enumerated in those treaties.

The Counsel for the prisoner declares that he has no further questions to put to the witness produced, and the deponent, after reading, declares that his deposition contains the truth, persists therein, and hath signed.

EMILE B. MOREL.

Sworn, taken and acknowledged before me at }
Montreal, this twenty-second day of August, }
eighteen hundred and sixty-six.

W. H. Brébaut, P.M.

The foregoing deposition having been made and read in the presence of the prisoner, Ernest Sureau Lamirande, Mr. Pominville, counsel for the prosecution, declared his desire to put the following questions, in rebuttal.

Question.—How long have you been an advocate? *Ans.* Since 1860.

Question.—Since Lamirande's arrest have you not been his adviser, and is it not you who have furnished the advocate who is defending him with all information in relation to this affair? *Ans.* I am one of Lamirande's counsel here. We have held consultation with Mr. Doutre in relation to his case.

Question.—Is Mr. Spilthorn, a witness also examined for the defence, also counsel for the accused? *Ans.* I do not know how far Mr. Spilthorn considers himself counsel for the accused.

Question.—What degree of relationship is there between Mr. Spilthorne and you? *Ans.* Mr. Spilthorn is my uncle; I studied law under him, we practice in the same office.

Question.—Am I to understand you are in partnership with Mr. Spilthorn. *Ans.* Yes, and no.

Question.—In your examination in chief you state that you acted as Lamirande's special advocate; tell us what you mean by that? *Ans.* It means that Mr. Lamirande consulted me on his affairs in general, apart from the other advocates.

Question.—How long was it after Lamirande's arrest in New York, that you saw him for the first time? *Ans.* I do not know whether it was two weeks or three, but I am not prepared to answer with certainty.

Question.—At what time were proceedings commenced at New York for the extradition of Lamirande? *Ans.* I think it was in the course of the month of May. Extradition was demanded for the crime of embezzlement, there was then no question whatever of a charge of forgery, that I know of. The proceeding for the extradition of the accused continued up to the flight of the prisoner. I heard it stated that he fled on the 3rd July. Proceedings for the extradition of the prisoner were then drawing to a close.

Question.—How long before the flight of the prisoner was the indictment produced before Commissioner Betts? *Ans.* I state that I was not altogether certain, but that I thought it was at the last or second last sitting.

Question.—Did you read the indictment produced before Commissioner Betts? *Ans.* I do not remember having read it.

Question.—Did you read the translation which was made of it? *Ans.* I do not remember.

Question.—Did you see the initials of Commissioner Betts on the documents and papers laid before him in the Lamirande affair? *Ans.* I do not remember.

Question.—Were the objections made by the advocates of the accused, with reference to the documents produced, set forth in writing? *Ans.* I think so, for it is habitually done.

Question.—Does Mr. Clinton, one of the advocates of the accused, speak French? *Ans.* I do not know.

Question.—Did you see in Mr. Spilthorn's office or in your own, the indictment of which you have already spoken? *Ans.* No.

Question.—Is it not true that, when you say in your examination in chief, "A universal cry was heard on all sides as to the absurdity of the charge of forgery," you mean to speak only of the advocates of the accused? *Ans.* I mean to speak also of Mr. Catois, a highly distinguished advocate from France, who said he did not understand how French Magistrates could prostitute themselves to so infamous an act as thus unduly to accuse an individual of forgery, knowing that there was no forgery possible under the French laws. I said that all, except those interested in the prosecution found the thing incredible and absurd.

Question.—Was not this Mr. Catois one of the advocates consulted by the defence? *Ans.* No, he was not, for on the contrary I always heard Mr. Catois say that he did not come forward to approve the faults the prisoner might have committed, but simply to depose before and inform the judge of what the statutes, law and justice were in France, that he knew it better than any person in New York, for matters of this kind, because he himself had been *Procureur du Roi* in France for many years.

Question.—How many persons were present in court when the indictment was produced? *Ans.* I did not count them.

Question.—Apart from the advocates for the prosecution and the defence, yourself included, were there more than five persons? *Ans.* I know there were several persons, but I cannot answer otherwise with certainty.

Question.—Were there more than six persons? *Ans.* I know nothing of it.

Question.—Were there more than three? *Ans.* I do not remember, or rather I know nothing of it, but think there were.

Question.—Is it not true that the person named Melin, of whom you speak in your examination in chief, always told you that he did not accuse Lamirande, that he was accused in the French Courts, and that in consequence he believed the charge to be well founded, and did he not add also that the answer Lamirande made to him concerning the forgery, indicated implicitly that he admitted himself guilty? *Ans.* No, if I remember aright he always told me the contrary. He told me he could not accuse Lamirande of having admitted himself guilty of forgery inasmuch as he had never acknowledged himself guilty; that is what he told me.

Question.—When did he tell you that? *Ans.* He said it to me yesterday again, at the door of the Court, and I heard him say it at different times besides, even here and elsewhere, where we reside at the Jacques Cartier Hotel.

Question.—Who invited Mr. Melin to the Jacques Cartier Hotel, and why was he invited to go there? *Ans.* I do not remember whether he came there of his own motion or whether he was invited there. I am not sure.

Question.—State the exact words used by Mr. Melin, when he spoke to you of the charge of forgery brought against the accused. *Ans.* I think I recollect that he used the terms, or very much the terms already mentioned by me. I cannot give exactly word for word the expressions he used.

Question.—On the oath you have taken, is it not true that Mr. Melin said to you, on the occasion in question, that when he had spoken to Lamirande about the indictment charging him with forgery, Lamirande answered “Yes, it is true, I know it.” *Ans.* I do not remember. I am morally certain of the contrary.

Question.—Is it not true that Melin told you that for himself personally he could not accuse Lamirande of forgery, but that Lamirande’s answer in speaking to him of that crime, “I know it well,” indicated implicitly, in Melin’s judgment, that Lamirande admitted his guilt? *Ans.* I do not remember that Melin ever told me that.

Question.—On the oath you have taken, give the expressions used by Melin, when he spoke to you of the forgery matter? *Ans.* I have already said I cannot state word for word the expressions he used, but I can say that the expressions he used and the tenor of the expressions he used, and which he did almost literally, if not literally use, were these: “I cannot accuse Lamirande of having admitted his guilt to me, inasmuch as he never to me admitted himself to be guilty of forgery.”

Question.—Was Melin under oath when he spoke thus to you? *Ans.* I should like the learned advocate to explain what he means by being under oath?

Question.—Do you know whether you are under oath, and that you have given your deposition under oath? *Ans.* Yes, I know that, (&c., as in ques.)

Question.—Did you assist or participate in the escape of Lamirande from New York? *Ans.* I refuse to answer that question because it is improper, impertinent, indecent, filthy, and unworthy of an advocate; and if I had more epithets at my command, I would present them in my answer.

The counsel for the prosecution, Mr. Pominville, declared that he has no further question to put to witness, and this examination is closed, and the foregoing having been read, deponent hath signed.

(Signed,)

EMILE B. MOREL.

Taken and certified before me at Montreal, }
this 22nd day of August, 1866. }

(Signed,) W. H. Brehaut, P.M.

A true copy,

W. H. Brehaut, P.M.

PROVINCE OF CANADA, }

District of Montreal. }

City of Montreal. }

Gaol at the said City of Montreal, in the said District of Montreal.

POLICE OFFICE.

To all or any of the Constables or other Peace Officers in the said District of Montreal, and to the Keeper of the Common

Whereas Ernest Sureau Lamirande, late of Poitiers in the French Empire, now present in the said City of Montreal, in the District of Montreal aforesaid, was this day charged before me, William H. Brehaut, Esquire, Police Magistrate in and for the District of Montreal, on the oath of Edme Justin Melin and others, with the crime of forgery, by having, in his capacity of Cashier of the Branch of the Bank of France at Poitiers, on the 12th day of March, one thousand eight hundred and sixty-six made false entries in the books of the said Bank, and thereby defrauded the said Bank of the sum of Seven hundred thousand francs.

And whereas a requisition has been made to His Excellency the Governor General of this Province by the Consul General of France in the Provinces of British North America, pursuant to the terms of the convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the French, signed at London, on the thirteenth day of February, in the year of Our Lord one thousand eight hundred and forty-three, and the acts of the Parliament of the United Kingdom of Great Britain and Ireland passed to give effect to the said convention, to issue his warrant

for the apprehension of the said Ernest Sureau Lamirande, accused of having committed the crime aforesaid after the ratification of the said convention.

And whereas, in compliance with the said requisition His Excellency the Governor General has by warrant under his hand and seal, bearing date at Ottawa, in the said Province, the twenty-sixth day of July in the year of Our Lord one thousand eight hundred and sixty-six, required each and every the Justices of the Peace and other Magistrates and Officers of Justice, within their several jurisdictions in the said Province of Canada, to aid in apprehending and committing him, the said Ernest Sureau Lamirande, to any one of the gaols within the said Province of Canada, for the purpose of being delivered up to justice, according to the provisions of the said Convention and the Acts to give effect thereto.

And whereas it appears to the said Police Magistrate that the acts charged against the supposed offender are clearly set forth in a warrant of arrest, or other equivalent judicial document, issued by a competent magistrate in France. And whereas divers persons have been examined upon oath before me touching the truth of the said charge, and whereas copy of a deposition taken in France touching the said charge, duly authenticated has been produced and fyled before me; And whereas such evidence would be according to the laws of Canada sufficient to justify the apprehension and committal of the said Ernest Sureau Lamirande, if the offence of which he is accused had been committed in Canada; and whereas the said Ernest Sureau Lamirande by himself and his counsel has had full opportunity to cross-examine the said witnesses and to adduce such evidence as he deemed advisable in his own defence; and whereas the said Ernest Sureau Lamirande has not shewn any good cause why he should not be committed for extradition according to the requirements of the said Convention and the laws passed to give effect thereto.

These are therefore to command you, the said Constables or Peace Officers, or any of you, to take the said Ernest Sureau Lamirande, and him safely convey to the common gaol at the City of Montreal aforesaid, and there deliver him to the keeper thereof—together with this precept, and I do hereby command you, the said keeper of the said Common Gaol to receive the said Ernest Sureau Lamirande into your custody in the said Common Gaol, and there safely to keep him until he is delivered pursuant to the requisition aforesaid, or by process of Law.

Given under my hand and seal this twenty-second day of August in the year of Our Lord one thousand eight hundred and sixty-six, at the said City of Montreal, in the District aforesaid.

(Signed,) W. H. BRÉHAUT,
P.M.

True copy.

Louis Payette,
Gaoler.

MONTREAL TELEGRAPH COMPANY.

Ottawa, 12th Oct., 1866.

By telegraph from Montreal.

To Geo. Futvoye, Esq.

Send by mail to-day, if possible, to Schiller, all documents transmitted by Bréhaut in Lamirande Case. Send them by mail to-morrow if you cannot send them to-day. Answer.

G. E. CARTIER.

13th October, 1866.

To C. E. Schiller, Esq.

Don't allow the papers in Lamirande's case to go out of your hands, and send them back as soon as done with.

By order of the Secretary.

(Signed,) E. PARENT.

CROWN LAW DEPARTMENT,

Quebec, 23rd August, 1866.

In re)
Ernest Sureau Lamirande. } The undersigned is of opinion that Ernest Sureau Lamirande having been arrested in accordance with the Warrant issued at Ottawa, on the 26th July last, by His Excellency the Governor General, and

having been since committed to the Common Jail at the City of Montreal, by Mr. Bréhaut, Police Magistrate, to be there kept until he is delivered, pursuant to the requisition made to His Excellency by the Consul General of France in the Provinces of British North America, or by process of law, the said Ernest Sureau Lamirande be delivered to such person or persons as may be authorized, in the name and on behalf of the French Empire, to receive the same, and that the necessary warrant do issue accordingly.

HECTOR L. LANGEVIN,
Sol. Gen., L.C.

Ottawa, 23rd August, 1866.

T. Bouthillier, Esq., Sheriff, Montreal.

SIR,—I have the honor to transmit to you, herewith, an Instrument to deliver to such person or persons as may be authorized by the French Empire to receive the body of Ernest Sureau* Lamirande, now detained in the Jail under your charge.

I have, &c.,

E. PARENT.

(Recorded, 23rd August, 1866.)

Province of }
Canada. }

MONCK.

VICTORIA, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland,
QUEEN, Defender of the Faith, &c., &c., &c.

To the Sheriff of the District of Montreal, in Our Province of Canada—GREETING:

GEO. H. LANE, }
Dep. Prov. Regr. } WHEREAS Ernest Sureau Lamirande, late of Poitiers, in the French Empire, laborer, is now detained in the common gaol of Our said District of Montreal, upon and by reason of a certain charge, on oath to wit, on a charge of having, on the Twelfth day of March last, at Poitiers aforesaid, committed the crime of forgery by having, in his capacity of cashier of the Branch of the Bank of France at Poitiers aforesaid, made false entries in the books of the said Bank, and thereby defrauded the said Bank of the sum of seven hundred thousand francs. And whereas the said Ernest Sureau Lamirande, not being one of our subjects, but being an alien has, since the commission of the said crime, come into this Province, from the said French Empire, and the said crime of which he is accused, having been committed in the said French Empire, it is fit and expedient that the said Ernest Sureau Lamirande may be made amenable to the laws of the said French Empire for the crime aforesaid. We therefore command you that the body of the said Ernest Sureau Lamirande, under your custody as aforesaid, you deliver to such person or persons as may be authorized, in the name and on behalf of the said French Empire, to receive the same. Provided always that the said Ernest Sureau Lamirande be detained under your custody aforesaid, for no cause, matter or thing other than the crime aforesaid, and this you are not to omit at your peril.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent, and the Great Seal of Our said Province to be hereunto affixed: WITNESS, Our Right Trusty and Well-Beloved Cousin the Right Honorable CHARLES STANLEY, Viscount MONCK, Baron MONCK of Ballytrammon, in the County of Wexford, Governor General of British North America, and Captain General and Governor in Chief in and over Our Provinces of Canada, Nova Scotia, New Brunswick and the Island of Prince Edward, and Vice-Admiral of the same, &c., &c., &c. At Ottawa, this Twenty-third day of August, in the year of Our Lord, one thousand eight hundred and sixty-six, and in the Thirtieth year of Our Reign.

By Command.

WM. McDougall, Secretary.

GOVERNOR GENERAL'S OFFICE,
Ottawa, Nov. 28, 1867.

SIR,—I have the honor to return herewith the Address of the House of Commons asking for papers in the Lamirande case, referred to me by you on the 16th instant, and to enclose copies of two Despatches on this subject. I am directed to inform you that the rest of the Correspondence between the Governor General and Her Majesty's Government, asked for in this Address, will be found in print in the Library of Parliament.

I have the honor to be, Sir,
Your obdt. servant,
H. COTTON,
For the Governor's Secretary.

E. Parent, Esquire,
Under Secretary of State.

Lord Carnarvon to Lord Monck.

(Canada, No. 113.)

DOWNING STREET,
30th November, 1866.

MY LORD,—I have the honor to transmit to your Lordship for your information, a copy of a Despatch addressed by Her Majesty's Ambassador at Paris to Lord Stanley, stating that the trial of M. Lamirande is fixed for the 3rd December, and containing some particulars as to the nature of the offences with which he is charged.

I have, &c.,
(Signed,) CARNARVON.

Governor the Right Honorable Lord Viscount Monck,
&c., &c., &c.

Lord Cowley to Lord Stanley.

(Copy, No. 401.)

PARIS, November 23, 1866.

MY LORD,—The trial of Lamirande is fixed for Monday the 3rd of December, your Lordship may like to know more precisely of what he is accused.

Lamirande was Cashier to the Branch Bank of France, established at Poitiers. As such he had considerable sums to receive and to pay, and, consequently, a deposit of a large amount was continually in his hands. The gold is tied up in bags containing a certain number of Napoleons, which are liable to be visited from time to time by the Inspectors, who open them and see that their contents are correct; but these Inspectors generally content themselves by opening one or two bags, and by weighing some of the others. Lamirande seems to have been in the habit of taking a few Napoleons at a time from some of these bags, which he took care should never come into circulation, giving them the proper weight by the addition of lead, and placing them where there would be the least chance of their being opened. His books at the same time were kept as if the proper amount of money was in his hands. Something having occurred to excite suspicion, Lamirande determined to abscond, taking with him a large sum of money in addition to those already stolen.

I have, &c.,
(Signed,) COWLEY.

The Lord Stanley, &c., &c., &c.

Sir J. Michel to Lord Carnarvon.

(No. 10.)

MONTREAL, December 15, 1866.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's Despatch, No. 113, of the 30th November, enclosing a copy of a note from Her Majesty's Ambassador at Paris to Lord Stanley, in which some particulars are given respecting the charges on which Lamirande was to be tried on the 3rd instant.

I have, &c.,
(Signed,) J. MICHEL.

CORRESPONDENCE WITH THE GOVERNOR GENERAL OF CANADA, RESPECTING THE EXTRADITION OF M. LAMIRANDE.

Presented to both Houses of Parliament, by command of Her Majesty, March 1867.

SCHEDULE.

DESPATCHES FROM THE GOVERNOR GENERAL.

| No. | No. | Date. | SUBJECT. |
|---|-----|----------------|--|
| 1 | 155 | Oct. 6, 1866. | Transmitting Address to Her Majesty from certain inhabitants of the City of Montreal, praying that a prisoner named Lamirande, lately delivered to the French Government, under the Extradition Treaty, may be returned to Montreal to have his case investigated there before the Court of Queen's Bench, on writ of <i>habeas corpus</i> . |
| 2 | 164 | " 18, " | Furnishing the Report on this case, as called for by Lord Carnarvon's Despatch No 61, of the 22nd September, 1866. |
| 3 | 173 | " 25, " | Inclosing three extracts from the " <i>Montreal Herald</i> ," containing reports of what took place in the Court of Queen's Bench respecting the necessity for notice in applications for the writ of <i>habeas corpus</i> . |
| 4 | 174 | " 25, " | Inclosing correspondence with Mr. Doutre, the Counsel for Lamirande. |
| 5 | 175 | " 25, " | Inclosing a further letter from Mr. Doutre with copies of documents. |
| 6 | 182 | " 31, " | Inclosing copy of Affidavit of M. Melin. |
| 7 | 193 | Nov. 10, " | Transmitting letter from Mr. Ramsay, the Crown Prosecutor, to Mr. Godley. |
| 8 | 4 | Jan. 3, 1867. | Acknowledging Lord Carnarvon's despatch announcing that Lamirande had been tried in France and sentenced to ten years' reclusion. |
| DESPATCHES FROM THE SECRETARY OF STATE. | | | |
| 1 | 61 | Sep. 22, 1866. | Transmitting copy of a despatch from Her Majesty's Ambassador at Paris, accompanied by a Letter from M. Lamirande, complaining of his extradition, and calling for a report on the case. |
| 2 | 67 | " 27, " | Stating that Her Majesty's Ambassador at Paris had been instructed to address a representation to the French Government on the subject. |
| 3 | 84 | Oct. 27, " | Acknowledging Lord Monck's despatch (No. 155) of the 6th October, 1866, explaining the circumstances under which Lamirande was delivered by the Canadian authorities to the French Police. |
| 4 | 110 | Nov. 24, " | Views of Her Majesty's Government respecting the course which had been adopted by the Canadian authorities in this case. |
| 5 | 114 | Dec. 14, " | Announcing that Lamirande had been tried in France and found guilty of forgery, (<i>faux</i> ;) and sentenced to ten years' reclusion, and that from this decision he had appealed to the Court of Cassation. |

N.B.—Such Documents referred to in the above Schedule, as are wanting will be found amongst the papers supplied by Mr. Brehaut, the Police Magistrate, as above.

DESPATCHES FROM THE GOVERNOR GENERAL.

No. 1.—Copy of a Despatch from Viscount Monck to the Right Honorable the Earl of Carnarvon.

(No. 155.—Received, October 24th, 1866.)

(Answered, No. 84, October 27th, 1866.)

QUEBEC, October 6, 1866.

MY LORD,—I have the honor to transmit, for presentation to Her Majesty, an Address from certain inhabitants of the City of Montreal, praying that a certain prisoner named Lamirande, lately delivered under my warrant of Extradition to the authorities of the French Government, may be returned to Montreal in order that his case may be investigated there before the Court of Queen's Bench, on writ of *habeas corpus*.

I have the honor to transmit also affidavits from Joseph Doutre, Esquire, Q.C., and C. L. Spilthorn, Esquire, Advocate, Counsel for Lamirande, and the judgment of Mr. Justice Drummond, of the Queen's Bench, on an application for a Writ of *habeas corpus*.

With respect to the statement of the facts of the case contained in these affidavits, as far as they came within my personal knowledge, I believe it to be accurate.

It is true that I stated to Mr. Spilthorn, when he presented a petition to me on the subject at Ottawa, that time should be afforded to the prisoner to apply for a Writ of *habeas corpus*, and that sufficient time not only to apply for, but to obtain the writ was allowed, is apparent from the judgment of Mr. Justice Drummond, who says, speaking of the proceedings before him on the 24th, "I would have issued the writ before adjourning the Court had the Counsel for the prisoner insisted upon it."

But while, on the one hand, sufficient time should be allowed to a prisoner to avail himself of any advantages which our laws allow him, I think on the other hand a friendly power with which a Treaty of Extradition exists, would have good grounds of complaint if unnecessary delays were interposed by the Executive in carrying those Treaty obligations into effect.

In this case the prisoner was committed by the Magistrate on the 22nd August.

Late in the forenoon of the 24th August, the Solicitor General for Lower Canada, Mr. Langevin, came to my residence, near Quebec, with the Warrant of Extradition, and gave me his opinion in writing, that, in point of law, the case was one for extradition.

In justice to the Solicitor General, I must here correct an error into which Mr. Doutre has fallen, in relating my statement of the verbal advice tendered to me by Mr. Langevin, with respect to the effect of my warrant on an application for a writ of *habeas corpus*.

I am made to say, that I executed the warrant "on the express understanding that it would in no way interfere with the proceedings adopted, or to be adopted by the prisoner, for obtaining a writ of *habeas corpus*."

What I did ask Mr. Langevin was, whether the execution of my warrant would interfere with the writ of *habeas corpus*, if the prisoner's counsel had obtained it in the period (forty-eight hours as it appeared from the dates) which had then elapsed since the committal. To this, Mr. Langevin replied in the negative, and I believe his answer was quite right in point of law.

I may state, that the practice which I have always followed in cases of extradition, of which we have a great number, on the application of the Government of the United States, is, in cases in which no questions of policy arise and which merely involve points of law, to guide myself by the advice of the Law Officers of the Crown.

This appeared to me such a case; and, as the Solicitor General advised me that in point of law it was right the prisoner should be surrendered, and I was under the impression from the dates, that forty-eight hours had elapsed between the committal of the prisoner and the signing of my warrant, which appeared to me ample time for obtaining the writ of *habeas corpus*, I executed it.

It is true, that on first hearing that the prisoner had been removed under my warrant, and before I was fully informed of the whole facts of the case, I did express my regret that he had been deprived of an advantage by my act, and I said that I would do what I could to enable him to bring his case before another tribunal.

I accordingly sent a message to your Lordship by Atlantic Telegraph*, briefly informing you of the facts of the case, and stating that, should an application be made for a writ of *habeas corpus* in England, I wished that if possible my warrant should not be a bar to it.

I am bound to say, that on a calm review of the whole facts, it appears to me that the miscarriage in the case is due to the want of diligence on the prisoner's part in suing out the writ of *habeas corpus*, for which full time was allowed; which writ, if it had been issued, would have suspended the execution of my warrant until the Court of Queen's Bench had had an opportunity of delivering its judgment on the merits of the case.

It may be right to state, by way of explanation, that though my warrant of extradition bears date the 23rd of August, the day upon which it was sealed at Ottawa, I did not, in point of fact, sign it as I have stated, until the 24th. The discrepancy arose from the fact

*The following is a copy of the Telegram sent by Lord Monck to Lord Carnarvon:—
(Telegram.)

"QUEBEC, August 30, 1866.

"Prisoner named Lamirande, delivered to French Government under my Warrant, went in 'Damascus' on 25th. Owing to delay in obtaining *habeas corpus* he was removed before it issued. Application will be made to English Courts by Mackenzie & Co. I wish my warrant not to be an obstacle. Do not reply.

"LORD MONCK."

that the officer who has the custody of my seal was at Ottawa, whereas I was at Quebec.
I have, &c.,

(Signed,) MONCK.

The Right Honorable the Earl of Carnarvon,
&c., &c., &c.

(Inclosure 1 in No. 1.)

Mr. Doutre to the Earl of Carnarvon.

MONTREAL, October 4, 1866.

MY LORD,—I have the honor to inclose a petition to Her Majesty from citizens of Canada, and especially from Montreal, concerning what is described as the fraudulent removal of E. S. Lamirande from the jurisdiction of the Court of Queen's Bench at Montreal, and praying Her Majesty to use Her authority for restoring the said Lamirande to the jurisdiction of the said Court. Your Lordship will oblige by laying it before Her Majesty, and inform the signers through me of its result. Messrs. Mackenzie, Treherne and Trinden, Solicitors of London, may be applied to for further information if required.

I have, &c.,

(Signed,) JOSEPH DOUTRE, Q. C.

To Lord Carnarvon,
Secretary of State for the Colonies, London.

(Inclosure 2 in No. 1.)

PROVINCE OF CANADA, } To Her Most Gracious Majesty Victoria, by the Grace
District of Montreal. } of God, of the United Kingdom of Great Britain and
Ireland, Queen, Defender of the Faith.

The Petition of the undersigned, humble subjects of Your Majesty, most respectfully represents, that from facts of public notoriety, in this part of the Province of Canada, it is manifest that Ernest Sureau Lamirande, claimed by France under the Extradition Treaty of February, 1843, on a charge of forgery, was fraudulently removed during the night of the 24th–25th August last, from the jurisdiction of the Judges of the Court of Queen's Bench, sitting in Montreal, while proceedings were pending for his release, in virtue of Your Majesty's writ of *habeas corpus*; such removal being resorted to in order to prevent the said E. S. Lamirande from obtaining the benefit of the said writ.

That previous to the said E. S. Lamirande being thus removed from the jurisdiction of the said Court, the Hon. L. T. Drummord, one of the Judges thereof, before whom the proceedings for *habeas corpus* were pending for his release, intimated to the Counsel engaged on behalf of the Crown, the private prosecutor, and the prisoner, that he was of opinion that there was no cause or law to authorize the extradition of the said Lamirande, and adjourned the case to the next morning for the purpose of ordering the issue of the writ of *habeas corpus* and the consequent release of the prisoner.

That on the morning of the 25th August last, the writ of *habeas corpus* was ordered to issue and issued accordingly, but that the return thereto was that the prisoner had been delivered over to the Agent of the French Government in the course of the previous night.

That by such fraudulent removal, the said Court has been set at defiance, to the evil example and scandal of Your Majesty's dutiful subjects.

Wherefore, your Petitioners most respectfully pray that Your Majesty be pleased to use your authority for restoring the said Ernest Sureau Lamirande to the jurisdiction of the Court of Queen's Bench, sitting at Montreal, so that the said Lamirande be there dealt with according to law, and in a manner worthy of Your Majesty's Crown and dignity.

And your Petitioners will ever pray.

(Signed,)

C. S. CHERRIER, Q. C.

(and 72 others.)

Montreal, September 22, 1866.

(Inclosure 3 in No. 1.)

PROVINCE OF CANADA, } In the Petition of C. S. Cherrier, Q.C., and others,
District of Montreal, (L.S.) } relative to the extradition of Ernest Sureau Lamirande.

Joseph Doutre, of the City of Montreal, Esquire, Queen's Counsel, being duly sworn, doth depose and say:

That the deponent is practising before all Her Majesty's Courts in this part of Canada, constituting heretofore the Province of Lower Canada, as Attorney, Advocate, Proctor, Solicitor and Barrister, since the year 1847, and has been commissioned as one of Her Majesty's Counsel.

That on the evening of the 1st day of August last, the deponent's services were retained on behalf of Ernest Sureau Lamirande, formerly a French subject, arrested the same day in pursuance of a warrant issued under the signature of His Excellency the Governor General of Canada, on a charge qualified as follows in the said warrant:

Whereas, one Ernest Sureau Lamirande, late of Poitiers, in the French Empire, stands accused of the crime of forgery, by having, in his capacity of Cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the said Bank, and thereby defrauded the said Bank of the sum of 700,000 francs, &c.

That from the beginning of the proceedings tending to the extradition of the prisoner, the deponent anticipated that the said prisoner would be arbitrarily and illegally dealt with by the Magistrate and the Officers prosecuting his extradition, and the deponent felt bound to take unusual precautions to protect the prisoner; that this expectation on the part of the deponent was grounded on the following facts:—

The ordinary Judicial Officer before whom these proceedings should have taken place, having obtained a leave of absence, a temporary Magistrate of Police had been appointed to fill the vacancy; the Magistrate so temporarily appointed, William H. Brehaut, Esquire, had been already dismissed from office as Clerk of the Crown for malversation, and had been re-appointed to a public office without having ever attempted to remove the causes of his dismissal, and he owed his re-appointment to the exclusive political influence of the actual Attorney General for Canada East; the Advocate representing the Attorney General East in the prosecution of crime on behalf of the Crown, T. K. Ramsay, Esquire, had also been dismissed from office for insubordination towards his superior officers, the political adversaries of the actual Attorney General; he also had been re-appointed to a public office through the exclusive political influence of the said Attorney General, and his zealous advocacy of the extradition of the prisoner was such, that the private prosecution often left the entire matter in his hands. The Deputy Clerk of the Crown, C. E. Schiller, whose participation in the proceedings complained of shall hereafter be shown, had also been dismissed from the same office for malversation, and had also been re-appointed, without having ever attempted to remove the causes of his dismissal, and through the exclusive political influence of the said Attorney General. The private prosecutor, the Bank of France, had selected for their Counsel Messrs. Pominville and Bétournay, the partners in business of the said Attorney General, the latter and his said partners practising in Montreal, under the name and firm of Cartier, Pominville and Bétournay.

That the parties engaged in prosecuting the extradition of the prisoner, revealed so manifestly their determination to carry away the prisoner, that nothing short of the fair and impartial dealings of His Excellency the Governor General could prevent them from accomplishing their object.

That since many years a rule of practice has obtained in this district, in matters of *habeas corpus*, requiring a notice of twenty-four hours to be given to the Attorney representing the Attorney General before presenting the petition for obtaining the writ.

That the arbitrary manner in which the proceedings were carried on against the prisoner, induced the deponent to suspect, that whenever the prisoner would be committed for extradition, this delay of twenty-four hours would be employed by the private prosecutor in obtaining the warrant of extradition from his Excellency the Governor General, and in executing such warrant with sufficient despatch to outrun the proceedings on *habeas corpus*, and thus frustrate the prisoner from the benefit thereof.

That on the 15th of August last, after the close of the investigation on the part of the private prosecutor, and before entering on the defence of the prisoner, the deponent addressed to His Excellency the Governor General, in the name of the prisoner, a petition in

which he exposed that none of the provisions of the Treaty, and of the Statute 6 and 7 Vic., cap 75, had been complied with, and that even if they had, the facts charged on the prisoner did not constitute the crime of forgery; that notwithstanding the illegality of the detention of the prisoner, he had reason to suspect that he would be committed, and that an attempt would be made to surprise the good faith and sense of justice of His Excellency, in order to obtain from His Excellency a warrant of extradition, before the prisoner could submit his case to a higher tribunal under a writ of *habeas corpus*, and finally praying His Excellency not to give an order for the surrender of the prisoner without allowing him the necessary time to submit his case under a writ of *habeas corpus*; and not to leave any room to accidents, the deponent requested Charles L. Spilthorn, Esquire, to proceed to Ottawa and present the petition personally to His Excellency, and bring back an answer; that on his return to Montreal the said C. L. Spilthorn reported to the deponent that he had received both from His Excellency the Governor General, and from the Attorney General a formal promise, that ample time would be allowed to the prisoner to apply for a writ of *habeas corpus*.

That on the 22nd day of August last, the proceedings before the Police Magistrate were brought to a close, and a decision rendered at half-past seven in the evening, committing the prisoner for extradition; that on the late hour at which the above decision of the Police Magistrate was rendered, it was impossible to give a legal notice to the Crown Prosecutor for the next night; that on the next morning, the 23rd day of August, the deponent caused to be served on the Crown Prosecutor, a copy of the petition of the prisoner for a writ of *habeas corpus*, with a notice, that such petition would be presented in Chambers, to any of the Judges of the Court of Queen's Bench, then present on the following day, 24th August, twenty-four hours after such service. That at the appointed hour on the latter day, the said petition was presented to the Honorable L. T. Drummond, one of the Judges of the said Court of Queen's Bench, in the presence of the said T. K. Ramsay, Esq., Crown Prosecutor, who argued as a preliminary point, that as the Crown was not the only party interested, the twenty-four hours' notice was insufficient, and requested longer delay to answer the petition; that on this demand the deponent answered, that although the notice was that required by the practice of the Court, he had no objection to grant even three or four days' delay for arguing the case, provided that the writ should immediately issue, and that the prisoner be, by that means, placed under the exclusive control of the Court; the deponent adding, that although he could not substantiate his apprehensions, and those of the prisoner, by affidavits, he had strong suspicions that by some means or other the prisoner would not be dealt with fairly and according to law; that on the mention of these apprehensions and suspicions, the Crown Prosecutor replied that it was a calumny against the institutions of the country, to suppose that the prisoner could be exposed to any unfair treatment; that the Honorable Judge having decided that the notice was sufficient, the case was argued by deponent on behalf of the prisoner, by the said T. K. Ramsay, on behalf of the Crown, and by F. P. Pominville for the private prosecutor; Mr. Ramsay arguing the points of law, and Mr. Pominville the facts of the case; that the deponent, having been prevented from entering in the facts, by the said Judge, for the reason that the mind of the said Judge was, as he expressed, sufficiently made up on the points of law. Mr. Pominville was also interrupted for the same cause, the Honorable Judge clearly expressing his opinion that he thought there was no cause for the extradition of the prisoner, and adding that, as the questions raised were important, on account of their international character, he would take until the next morning for preparing his judgment, and consequently adjourned the case to the next day.

That on the evening of the same day, 24th August, between half-past 8 and 9 o'clock, the deponent was called upon by parties, who informed him that they had credible information that the prisoner was to be carried away within a short time the same night; that deponent answered, that the prisoner could not be taken away upon any authority other than that of the Governor General, who had promised to allow the prisoner the necessary time for obtaining a writ of *habeas corpus*, adding that if he was taken away, it must be with the forged signature of the Governor General; that he (the deponent) had no means to protect his client against forgeries; that although disbelieving such information, the deponent immediately repaired to the residence of the said Judge, to lay it before him, which he did, by an affidavit, stating the facts; that on this information of the deponent the said

Judge accompanied the deponent to the Grand Trunk Railway Station where a Train was to leave at ten minutes after ten o'clock the same night for Quebec, with the object of commanding any person that might be engaged in taking away the prisoner, to desist from doing so, as the prisoner was then under his jurisdiction; that the presence at the Railway Station of the French Detective Melin, the High Constable Bissonette, and of Sipling, a Montreal Constable, giving some substance to the information conveyed to the deponent; the said Judge, after stating to the High Constable that he had information under oath, of a threatened attempt to take away the prisoner, started for the gaol, where he left a written order commanding the gaoler not to deliver the prisoner on the authority of whomsoever, as he was then under the jurisdiction of the said Judge; that the deponent, conceiving that his mission as an interpreter of the law did not impose upon him the duty of resorting to other means of defence, he left the matter in this state until the next morning; that on the 25th August, the writ of *habeas corpus* was ordered to issue, and accordingly issued, and the gaoler's return to it was that the prisoner had been delivered over to an Agent of the French Government during the previous night, on the warrant of the Deputy Sheriff, founded on the warrant of the Governor General, dated the 23rd day of the same month; that on this Return the Honorable Judge called upon the Deputy Sheriff to give an account of his conduct, in the presence of the deponent; that the Deputy Sheriff then stated, that he had given his warrant on the demand of Mr. Bétournay, one of the Attorney General's partners in business, and in official ignorance of the proceedings for *habeas corpus*; that the Deputy Sheriff having received orders to produce the Governor General's warrant, it appeared that the said warrant was in the hand writing of the above named C. E. Schiller, Deputy Clerk of the Crown, who being asked how it happened that that document was in his hand writing, answered that some time before the decision of the Police Magistrate, he had received from the Crown Prosecutor, the said T. K. Ramsay, a draft of the said warrant, with a request to him, Schiller, to write it on parchment and have it ready for use, when need be; that, in the presence of the said C. E. Schiller, the gaoler was asked by the said Judge when and where he had received the warrant of the Deputy Sheriff, and he answered that he had received it during the night of the 24th August, at the residence of the Deputy Sheriff, where he had gone for some other pressing business connected with his official duties (which was true), and where he had seen, occupied with the obtaining of a warrant for taking away Lamirande, the said Mr. Bétournay, C. E. Schiller, High Constable Bissonette, French Detective Melin, and Constable Sipling; that the deponent desiring to exhaust all means of preventing the illegal surrender of the prisoner, called upon the Governor General at Quebec, on the 29th of August, accompanied by C. L. Spilthorn, Esq., who had presented the petition above referred to, of the prisoner, at Ottawa, on the 17th August, and had obtained the promise also above referred to, from His Excellency and the Attorney General; that in that interview His Excellency fully acknowledged that he had made that promise; that the deponent and the said C. L. Spilthorn, having written a joint report of that interview with the Governor General, and that report being communicated to the Governor General, His Excellency, by a letter addressed to the deponent by his Secretary, Denis Godley, Esquire, under date of the 12th September, instant, acknowledged in the following terms the correctness of its contents:—

"I have the honor to inform you that I have laid the paper which you enclosed to me in your letter of the 11th instant, before the Governor General, and I am to acquaint you that it is therein correctly stated His Excellency told Mr. Spilthorn that ample time would be allowed to Lamirande to obtain a writ of *habeas corpus*, before the execution of the warrant for his extradition." That in this interview His Excellency explained that when he had signed the warrant of extradition, he had done so at the request of Solicitor General Langevin, under the express understanding that it would in no way interfere with the proceedings adopted, or to be adopted, by the prisoner for obtaining a writ of *habeas corpus*, that having been deceived in the execution of that understanding, he felt more grieved than any one for having been instrumental in committing a grave wrong towards the prisoner, and he would do anything practicable to redress that wrong; that it was then and there understood that His Excellency would telegraph through the cable to the Honorable the Secretary of State for the Colonies to support in the measure of his powers the proceedings which would be adopted by the Counsellors to whom the deponent was to

telegraph for obtaining a writ of *habeas corpus* in England, and for that object His Excellency requested the deponent to communicate to him the names of the Counsellors the deponent intended to employ in London; that the deponent having returned to Montreal on the night of the 29th August, he telegraphed on the 30th to His Excellency that he would entrust Messrs. Mackenzie, Treherne, and Trinden, Solicitors, of London, with the duty of applying for a writ of *habeas corpus*; and the same day the deponent telegraphed through the Atlantic Cable to that legal firm in the following terms:—"See Lord Carnarvon. E. S. Lamirande, kidnapped by E. Justin Melin and Joseph Sipling, on Steam Ship *Damascus*, S. Watts, captain, due Londonderry, 3rd September. Use *habeas corpus*." That from the conversations of the deponent with His Excellency, the deponent was led to believe that the promised telegram of His Excellency would make up for the insufficiency of information conveyed by the telegram of the deponent, which impression was confirmed by a letter of the Secretary of the Governor General, addressed to the deponent under date the 10th September last, in following terms:—"In reply to your request that the telegram of the Governor General to the Secretary of State for the Colonies should be communicated to you, I am to acquaint you that His Excellency in his message to Lord Carnarvon, expressed his desire that his warrant for Lamirande's extradition should not be any obstacle to the prisoner's obtaining a writ of *habeas corpus* in England, as His Excellency understood that an application for that purpose would be made in the English Courts."

That on the 25th August last, judgment was rendered, ordering the issuing of the writ of *habeas corpus*; that in return thereto the gaoler stated, that during the night of the 24th and 25th August, he had delivered over the prisoner to E. J. Melin, agent of the French Government, on the warrant of the Deputy Sheriff, founded on the warrant of the Governor General, that on this return the Judge seeing that an order for the discharge of the prisoner would be of no avail, adjourned to another day the recording of his judgment, which was afterwards recorded in the terms of the accompanying record.

And further deponent saith not, and hath signed.

(Signed,) JOSEPH DOUTRE.

Sworn and acknowledged before me, at Montreal, the 4th October, 1866.

(Signed,) CHARLES MONDELET, Jun.

Charles L. Spilthorn, of the City of New York, Attorney and Counsellor-at-Law, being duly sworn, doth depose and say, that having taken communication of the foregoing affidavit, he may and do declare that all and every the facts therein contained are personally known to him, and are true, and hath signed.

(Signed,) C. L. SPILTHORN.

Sworn and acknowledged before me, this 4th day of October, 1866.

(Signed,) CHARLES MONDELET, Jun.

(Inclosure 4 in No. 1.)

PROVINCE OF CANADA, }

District of Montreal, } (L.S.) In the matter of Ernest Sureau Lamirande.

Charles L. Spilthorn, of the City of New York, Attorney and Counsellor-at-Law, being duly sworn on the Holy Evangelists, doth depose and say as follows:—

I have assisted at the examination and trial of the said Lamirande, at Montreal, before the Police Magistrate Bréhaut, and am well acquainted with the case. On the 15th of August, 1866, I was solicited by Joseph Doutre, Esquire, Counsel for Lamirande, to go to Ottawa, in order to present personally to His Excellency the Governor General, a petition which Mr. Doutre had hastily prepared in the name and in the interest of Lamirande; in that petition it was exposed to His Excellency that there was no ground to extradite Lamirande; that none of the formalities provided by law had been fulfilled, and that even if they were, there was not in the whole matter the shadow of the crime for which his extradition was demanded; that, notwithstanding all this, there was reason to suspect that some attempt would be made to surprise the good faith and sense of justice of His Excellency, in order to obtain from him a warrant of extradition, without giving time to the prisoner to apply to the regular tribunals of the country, and submit his case for examination; the petition concluded by praying His Excellency not to warrant the surren-

der of the prisoner in haste, and to give him time to have his case carefully considered by the legal authority.

Having been one of the Counsel of Lamirande in New York, and seeing that the ground of his extradition was a manifest false pretence, I could not decline to act as Mr. Doutre requested me to do, and I started the evening of the same day for Ottawa. After reaching this place, I presented, on the 16th of August, the petition of Lamirande to the Governor General, through Denis Godley, Esq., Private Secretary of His Excellency; on the same day, in the afternoon, Mr. Godley informed me that the petition had been referred to the Honorable the Attorney General Cartier.

On the 17th I was received by His Excellency, who told me spontaneously that he knew the object of my visit, that he had seen and read the petition of Lamirande, and that there was no occasion to entertain any fear, that nothing would be done hurriedly nor without the fullest consideration; that Lamirande would be allowed all the time required for applying by *habeas corpus*, or other legal means to all competent Courts of Her Majesty; then a general conversation followed about the facts of the case. I explained to His Excellency the case of Windsor, decided in London, in the spring of 1865, when the same question was decided by the highest and most distinguished Judges of England, by which decision it was established that, admitting all the facts alleged in the case of Lamirande, there was no ground for extradition. I mentioned, that when this case had been cited before the Police Magistrate, the Crown Prosecutor had laughed at the decision of those English Judges, as being no authority. His Excellency expressed the high respect he entertained for the opinion of the Judges of the Court of Queen's Bench, which besides being the highest Court, was presided over by the most eminent and learned Judges of England. After repeating the assurance that the prisoner would be allowed the most ample time and opportunity of having his case fully examined by all competent Courts, not excluding the Courts of England, as I had alluded to the possibility of resorting to them. His Excellency advised me to see the Honorable Attorney General Mr. Cartier, and ordered one of his officers to introduce me to him. After some conversation about the case and other matters, Mr. Cartier told me that there would and could be no precipitation in the decision of the Governor; that all the papers must be submitted to the Executive and personally to the Governor, after the commitment, if there were any; that these proceedings would necessarily take several days, and that His Excellency would not decide except after mature deliberation and according to his own judgment.

He added that he did not see any occasion for hurrying the matter; that we should have all the time required for *habeas corpus*, and finally, that I might have the fullest confidence in the word of the Governor General, whose promise I had communicated to him. We then parted in the most friendly way.

On the 22nd of August, the argument being closed before the Police Magistrate at 6 o'clock, P. M., he rendered his judgment at half-past 11, notwithstanding the prayer of Mr. Doutre to postpone it to the following day for better consideration. His Excellency was then passing through Montreal from Ottawa to Quebec, and it was rumoured that he would stop an hour at Montreal. Everything was so much hurried up that this circumstance looked very suspicious to the prisoner, as he communicated to his Counsel. As soon as possible an application was made for a writ of *habeas corpus*.

I was present in Chambers, Court of Queen's Bench, on the 24th of August, when Mr. Ramsay, the Crown prosecutor, complained of the short notice of twenty-four hours he had received of the petition for *habeas corpus*. Although the Judge decided that the notice was sufficient, Mr. Doutre offered to allow two or three days to answer it, provided the writ should issue immediately so as to place the prisoner more expressly under the exclusive control of the Honorable Judge and Court. Mr. Ramsay having declined to accept that offer, Mr. Doutre, after some argument of the case, stated that he felt bound to make himself the echo of his client's mind, and to express the deep apprehension of foul play under which he laboured. Mr. Ramsay protested against such insinuations and, as he said, calumniations of the institutions of the country, the Governor General being the only person under whose warrant the prisoner could be extradited, and he was fully protected against any illegal processes. His Honor the Judge said that the question being of high importance, and the prisoner being from this moment under the control of

the Court, he would take to the next day to mature his judgment. The Counsel for the French Government was also present and heard on their behalf.

On the same night, 24th of August, at about half-past 8, I was at Mr. Doutre's house, when he told me that persons who wished not to be seen had at that moment assured him that Lamirande was to be spirited away that night. We could not believe it; notwithstanding Mr. Doutre went to the house of the Judge to consult him, and I went to the Bonaventure Station, where all trains leave. At about half-past 9 Mr. Doutre, in company of the Judge, Mr. Drummond, before whom the application for *habeas corpus* was made, came there also. Then the Judge meeting High Constable Bissonnette, told him that an affidavit had been made before him to the effect that some attempt was to be made during the night to remove the prisoner Lamirande from his jurisdiction.

Mr. Bissonnette answered that he knew nothing thereof, and had received no order to that effect.

Mr. Justice Drummond then told Mr. Bissonnette that he gave him notice thereof, and that if any such thing should happen he would hold him responsible. Immediately after this Mr. Bissonnette and the French detective Melin, who was in Bissonnette's company, disappeared, when Judge Drummond said that having sufficient evidence that there was something on foot, he would go to the gaol.

A few minutes after, the Quebec train being in motion, Mr. Doutre advised me to go down to Quebec, and do as circumstances would require. I did so; but the train stopped at Point St. Charles and we were all detained there until 1 o'clock A. M. During that interval I walked up and down, and saw that the train was divided in two parts, some three or four cars having been left some distance behind. About one or two minutes before the final departure of the train the two parts were coupled together. Having more than suspicions about what was going on, I tried to look into those cars. One of them was a baggage car, having a kind of balcony passage. Seeing light in that car, I went in the passage and saw Lamirande through the window. The door was locked. Around Lamirande I saw High Constable Bissonnette, the French detective Melin, and one or two others I did not know. I called Lamirande by his name, and he made a move towards me but was immediately brought down by force, and the light inside was blown out. I did not see him any more before reaching Point Levi, near Quebec, on the morning of the 25th of August. On the way down I prepared two telegrams, one addressed to the Governor General, the other to Lawyers of Quebec. I applied to five stations to have my telegrams sent to their destination. In two of them I found no operator; in two others I was told that they were not in working order; and in the last objection was made to my telegrams because they were written in pencil. We arrived at Point Levi about 10 o'clock. I met Lamirande at the ferryboat. I asked his guardians under what authority they were conveying him. They answered at first that they had no account to give, but at last they said that they had the Governor's warrant. I reminded Bissonnette of what had been told him by Mr. Justice Drummond in my presence. He answered that when he had the Governor's warrant he laughed Judges' orders. Bissonnette's assistants were saying the same; this all amidst threats of violence and arrest against me if I said any thing more. All the while the ferry boat was directed towards the Steamer *Damascus*, laying at the Quebec wharf, and waiting for the ferry under steam. Lamirande was immediately transferred on the steamer which left a few minutes afterwards. My mission was then at an end. I could not do anything more for Lamirande, and I returned. When I came back to Montreal the Judge had given his decision, allowed the writ of *habeas corpus* and pronounced his opinion for discharging the prisoner.

The other facts connected with this affair being related in an affidavit of Joseph Doutre, Esquire, are omitted in the present deposition to avoid repetition. And further deponent says not, and his deposition being read to him, he declares it contains the truth, and has signed.

(Signed,) C. S. SPILTHORN.

Sworn and acknowledged before me at Montreal, this 4th day of October, 1866.

(Signed,)

CHARLES MONDELET, Jun.

(Inclosure 5 in No. 1.)

PROVINCE OF CANADA, } In Chambers.—Tuesday, August 28, 1866.

District of Montreal, } (L.S.)

Before the Honorable Mr. Justice Drummond. In the matter of Ernest Sureau Lamirande, for writ of *habeas corpus*.

The Honorable Mr. Justice Drummond pronounced the following judgment:—

On the 26th July last, a document under the signature of His Excellency the Governor General, purporting to be a warrant for the extradition of the petitioner, issued under the authority vested in His Excellency by the provisions of the Statute passed by the Legislature of the United Kingdom of Great Britain and Ireland, in the sixth and seventh years of Her Majesty's Reign, intituled, "An Act to give effect to a Convention between Her Majesty and the King of the French, for the apprehension of certain offenders," setting forth that the said petitioner stood accused of the crime of "forgery,"—for having in his capacity of Cashier of the Branch of the Bank of France, at Poitiers, made false entries in the books of the said Bank, and thereby defrauded the said Bank of the sum of seven hundred thousand francs;" that a requisition had been made to His Excellency by the Consul General of France in the Provinces of British North America, to issue his warrant for the apprehension of the said petitioner, and requiring all Justices of the Peace and other Magistrates and Officers of justice within their several jurisdictions to aid in apprehending the petitioner and committing him to gaol.

Under this document the prisoner was arrested, and after examination before William H. Bréhaut, Esq., Police Magistrate and Justice of the Peace, was fully committed to the common gaol of this district on the 22nd day of the current month of August.

On the following day, between the hours of 11 and 12 o'clock in the forenoon, notice was given in due form by the prisoner's Counsel to the Counsel charged with the criminal prosecutions in this district, that he (the said Counsel for the prisoner) would present a petition to any one of the Judges of the Court of Queen's Bench, who might be present in Chambers at 1 o'clock in the afternoon of the following day (the 24th), praying for a writ of *habeas corpus* and the discharge of the prisoner.

At the time appointed this petition was submitted to me.

Mr. J. Doutre appeared for the petitioner, Mr. T. K. Ramsay for the Crown, and Mr. Pominville for the private prosecutor.

A preliminary objection, raised on the ground of insufficient notice, was overruled.

Mr. Doutre then set forth his client's case in a manner so lucid that I soon convinced myself, after perusing the statute cited in the warrant of extradition, that the warrant itself, the pretended warrant of arrest alleged to have been issued in France, (*arrêt de renvoi*), and all the proceedings taken with a view to obtain the extradition of the petitioner, were unauthorized by the above cited Statute, illegal, null and void, and that the petitioner was therefore entitled to his discharge from imprisonment.

But as Mr. Pominville, whom I supposed to be acting as Counsel for the Bank of France, wished to be heard, I adjourned the discussion of the case until the following morning.

I would have issued the writ before adjourning had the Counsel for the prisoner insisted upon it; but that gentleman was, no doubt, lulled into a sense of false security by the indignation displayed by the Counsel for the Crown, when Mr. Doutre signified to me his apprehension that a *coup de main* was in contemplation to carry off the petitioner before his case had been decided.

On the following morning, Saturday the 25th of this month, I ordered the issuing of a writ of *habeas corpus* to bring the petitioner before me with a view to his immediate discharge.

My decision to discharge him was founded upon the reasons following:—

1. Provided by the 1st section of the Act of the British Parliament, to give effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders, (6 and 7 Vic., cap. 75,) that every requisition to deliver up to Justice any fugitive accused of any of the crimes enumerated in the said Act, shall be made by an Ambassador of the Government of France, or by an accredited Diplomatic Agent, whereas the requisition made to deliver up the petitioner to justice, has been made by Abel Frederic Gauthier, Consul General of France in the Provinces of British North America,

who is neither an Ambassador of the Government of France, nor an accredited Diplomatic Agent of that Government, according to his own avowal upon oath.

2. Because by the 3rd section of the said Statute it is provided that no Justice of the Peace or any other person shall issue his warrant for any such supposed offender, until it shall have been proved to him upon oath or affidavit, that the person applying for such warrant is the bearer of a warrant of arrest, or other equivalent judicial document, issued by a Judge or competent Magistrate in France, authenticated in such manner as would justify the arrest of the supposed offender in France upon the same charge, or unless it shall appear to him that the act charged against the supposed offender, is clearly set forth in such warrant of arrest or other judicial document; whereas, the Justice of the Peace who issued his warrant against the petitioner, issued the same without having any such proof before him, the only document produced before him, as well as before me, in lieu of such warrant of arrest or equivalent judicial document, being a paper-writing, alleged to be a translation into English of a French document, made by some unknown or unauthorized person, in the office of Counsel for the prosecutor at New York, and bearing no authenticity whatever.

3. Because, supposing the said document, purporting to be a translation of an *acte d'accusation* or indictment, accompanied by a pretended warrant for arrest, and designated as an *arrêt de renvoi* to be authentic, it does not contain the designation of any crime comprised in the number of the various crimes, for or by reason of the alleged commission of which any fugitive can be extradited under the said Statute.

4. Because, by the 1st section of the said Act, it is provided that no Justice of the Peace shall commit any person accused of any of the crimes mentioned, in the said Act (to wit: murder, attempt to commit murder, forgery, and fraudulent bankruptcy,) unless upon such evidence as according to the laws of that part of Her Majesty's Dominions in which the supposed offender shall be found, would justify the apprehension and committal for trial of the person so accused, if the crime of which he shall be accused had been there committed.

Whereas, the evidence produced against the petitioner, upon the accusation of forgery brought against him before the committing Magistrate, would not have justified him in apprehending or committing the petitioner for the crime of forgery, had the acts charged against him been committed in that part of Her Majesty's Dominions where the petitioner was found, to wit: in Lower Canada.

5. Because, the said warrant for the extradition of the prisoner, as well as the warrant for his apprehension, does not charge him with the commission of any one of the crimes for which a warrant of extradition can be issued under this Statute, inasmuch, as in both of the said warrants the alleged offence is charged against the petitioner as "forgery, by having in the capacity of Cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the bank, and thereby defrauding the said bank of the sum of 700,000 francs."

Whereas, the said offence, as thus designated, does not constitute the crime of forgery according to the laws of England and Lower Canada, for to use the words of Judge Blackburn, when he pronounced judgment concurrently with C. J. Cockburn and Judge Shee, in a case analogous to this, *ex parte* Charles Windsor, Court of Queen's Bench, May, 1865, "forgery is the false making of an instrument purporting to be that which it is not; it is not the making of an instrument purporting to be that which it is; it is not the making of an instrument which purports to be what it really is, but which contains false statements. Telling a lie does not become a forgery because it is reduced to writing."

The Gaoler's return to this writ of *habeas corpus* was, that he had delivered over the prisoner to Edme Justin Melin, Inspecteur Principal de Police de Paris, on the night of the 24th instant, at 12 o'clock, by virtue of an order signed by W. H. Sanborn, Deputy Sheriff, grounded upon an instrument signed by His Excellency the Governor General.

It appears that the petitioner thus delivered up to this French Policeman, is now on his way to France, although his extradition was illegally demanded, although he was accused of no crime under which he could have been legally extradited, and, although, as I am credibly informed, His Excellency the Governor General had promised, as he was bound in honor and justice to grant, the petitioner an opportunity of having his case decided by the first tribunal of the land, before ordering his extradition.

It is evident that His Excellency has been taken by surprise, for the document signed by him is a false record, purporting to having been signed on the 23rd instant, at Ottawa, while his Excellency was at Quebec, and falsely certified to have been recorded at Ottawa, before it had been signed by the Governor General.

In so far as the petitioner is concerned, I have no further order to make, for he whom I was called upon to bring before me is now probably on the high seas, swept away by one of the most audacious and hitherto successful attempts to frustrate the ends of justice which has yet been heard of in Canada.

The only action I can take, in so far as he is concerned, is to order a Copy of this Judgment to be transmitted by the Clerk of the Crown to the Governor General, for the adoption of such measures as His Excellency may be advised to take to maintain that respect which is due to the Courts of Canada, and to the laws of England.

As to the public officers who have been connected with this matter, if any proceedings are to be adopted against them, they will be informed thereof on Monday, the 24th day of September next, in the Court of Queen's Bench, holding criminal jurisdiction, to which day I adjourn this case for further consideration.

We, the Honorable Louis Antoine Dessaulles and William Ermatinger, Esquire, Clerk of the Crown for the District of Montreal, do hereby certify, that the foregoing is a Copy of the Judgment rendered by the Honorable Lewis Thomas Drummond, one of the Justices of the Court of Queen's Bench for Lower Canada, at Montreal, on the 28th day of August, 1866, upon the petition of the said Ernest Sureau Lamirande for a writ of *habeas corpus*.

(Signed,) DESSAULLES AND ERMATINGER,
Clerk of the Crown, District of Montreal.

Crown Office, Montreal, October 4th, 1866.

No. 2.—*Copy of a Despatch from Viscount Monck to the Right Honorable the Earl of Carnarvon.*

(No. 164.—Received November 1, 1866.) QUEBEC, October 18, 1866.

MY LORD.—I have the honor to acknowledge the receipt of your Lordship's Despatch, No. 61, of September 22, transmitting a copy of a Despatch from Her Majesty's Ambassador at Paris to the Secretary of State for Foreign Affairs, accompanied by a letter from a French subject named Lamirande, complaining of his having been given up to the French Government under the Extradition Treaty, and more especially of the manner in which he was removed from Canada, while his case was still under consideration of a Judge of the Court of Queen's Bench.

I have also the honor to acknowledge the receipt of your Despatch, No. 67, of September 27, in which you inform me that Her Majesty's Ambassador had been instructed to request a delay in the legal proceedings against Lamirande until authentic information about his case had been received from Canada.

I had hoped to be able, in conformity with your Lordship's instructions, to have sent my report of this case by last week's mail; but owing to the fact that the ship which brought your first Despatch was delayed much beyond the usual time of arrival, I found it impossible to get all the information ready in time.

I have now the honor to transmit the several documents connected with the extradition of Lamirande;* and also beg leave to refer Your Lordship to my Despatch on this subject, No. 155, of the 6th instant, and the papers inclosed in it.

This case seems to divide itself naturally into three heads:—

1st. The legal grounds which exist for the extradition of the prisoner.

2nd. The manner of his extradition.

3rd. The conduct of the different persons connected with the Government who took any part in the proceedings.

I shall endeavor to express to your Lordship my views on the subject in this order.

The first and most important question to be resolved is, whether this prisoner has

*The Attorney General for Lower Canada to Lord Monck, October 17, 1866; T. K. Ramsay Esq., to the Hon. Attorney General for Lower Canada; Depositions,

committed any act for which his surrender could be demanded under the Extradition Treaty with France.

The crime alleged against him is that of "forgery," by having in the capacity of Cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the Bank, and thereby defrauded the said Bank of the sum of 700,000 francs.

In the French version of the Treaty the word used in treating of crimes of this description is *faux*, which, in the English version,—I presume for want of an equivalent English word,—is rendered by the word "forgery."

Now, I believe it is true that, according to the English law, the falsification of entries in a banker's book does not constitute the crime of "forgery."

But it is equally true that, under this Treaty, prisoners may be surrendered to the French authorities for acts which are not cognizable by the criminal law of England.

It is only necessary to state, in order to prove this, that "fraudulent bankruptcy" is one of the acts for which a prisoner may be surrendered, and that this act is notoriously not punishable criminally in England.

In order, therefore, to ascertain whether this prisoner has committed an offence for which he might be legally surrendered under the Treaty, it is necessary to discover what meaning the French criminal law attaches to the word *faux*.

On referring to.—

"Les Codes Français collationnés sur les Textes Officiels, par Louis Tripier, Seizième édition, Paris, 1865; Code Pénal, livre iii, chapitre 3; Crimes et Délits contre la Paix Publique, section première du Faux."

I find that the word *faux* includes a great variety of acts which, I presume, would not be "forgery" under British law.

Section 3 of this chapter is headed "Des faux en écriture publique ou authentique, et de Commerce ou de Banque."

Article 3 of this section, page 853, reads as follows:—

"Seront punies de travaux forcés à temps toutes autres personnes qui auront commis un faux en écriture authentique et publique ou en écriture de commerce ou de banque.

"Soit par contrefaçon ou altération d'écritures ou de signatures.

"Soit par fabrication de conventions, dispositions, obligations ou décharges, ou par leur insertion après coup dans les actes."

From this, I think, it is apparent that the act for which the extradition of the prisoner was demanded is a crime by the laws of France, and is included under the general designation *faux*, used in the French version of the Treaty.

These considerations appear to me to dispose of the question as to whether the prisoner has committed any act for which his extradition could be demanded under the Treaty with France.

The next point of dispute in the case is as to the authority of the French official who made the demand for the surrender of the prisoner, namely the Consul General of France in British North America. I confess that when the subject came before me for my decision, my own opinion concurred with that of the Law Officers of the Crown in Canada, that the Consul General who resided amongst us as the recognized Agent of the French Foreign Office, was clothed with sufficient powers to put the Treaty and Statute in operation.

The only other question, as it appears to me, connected with this branch of the case, refers to the legal documents which the Statute requires to be given in evidence before the Magistrate on the preliminary investigation.

The objection to the extradition of the prisoner in this respect, seems to rest principally on the non-production of a legal document from the French Court, called an "*arrêt de renvoi*."

In order to explain the bearing of this objection, it is necessary to state that this prisoner originally escaped from France to New York, where an application was made for his extradition under the provisions of the Treaty between France and the United States of America.

On the investigation of this application before the Magistrate at New York, Lamirande was represented by Mr. Spilthorn, who was also one of his counsel at Montreal.

The *arrêt de renvoi* alluded to, was produced in due form before the Court at New York, and it was proved at the investigation at Montreal, on the oath of Mr. J. R. Coudert, an

advocate residing at New York, that the document was abstracted by Mr. Spilthorn, and that the prosecutors have never since been able to recover possession of it.

Lamirande effected his escape from jail at New York before judgment was given there on the application for his extradition, came to Canada, and the application for his extradition was made here.

On the proof of the facts which I have above detailed, to account for the absence of the "*arrêt de renvoi*" at the trial at Montreal, the magistrate admitted secondary evidence of its contents to be given.

I was advised that it was competent for him to do so, and I think Your Lordship will agree with me that, assuming that this advice was sound in law, the case was not one in which I was called on to depart from the strict letter of the law in favor of the prisoner.

I think I have now given Your Lordship the impression produced on my mind by the consideration of all the points raised as to the grounds which existed for the surrender of Lamirande.

You will find them dealt with elaborately and in a more technical form in the accompanying reports from the Attorney General and Mr. Ramsay, the counsel who represented the Attorney General in the investigation at Montreal.

I now come to the consideration of the manner in which this prisoner was taken out of the jurisdiction of the Canadian Courts.

By the 6th and 7th Vic., chap. 75 (the Statute passed for giving effect to the Extradition Treaty with France), the public functionaries named in the Act, amongst them, in Colonies, the Governor, are required, on being notified that a person who is accused of having committed within French Territory any of the crimes enumerated in the statute, to issue their warrant for his apprehension.

This was done by me in the case of Lamirande.

The next step required by the Statute is the examination of the charge on oath before a Justice of the Peace.

This proceeding also took place, and on the 22nd August the prisoner was duly committed by the Justice "to jail, there to remain until delivered, pursuant to such requisition."

In the meantime, and while the investigation before the Justice of the Peace was proceeding, I think about the 16th or 17th of August, a petition was presented to me, stating that apprehensions were entertained that this prisoner would be carried out of the jurisdiction of the Canadian Courts, without having time allowed him to make an application for a writ of *habeas corpus*. On that occasion I saw Mr. Spilthorn, one of the Counsel for the prisoner, and I told him that time for making such an application should be allowed.

On the 22nd August I left Ottawa for Quebec, arriving there on the morning of the 23rd.

Late in the forenoon of the 24th, Mr. Langevin, Solicitor General for Lower Canada, called upon me with the warrant of extradition (bearing date the 23rd, on which day it was sealed at Ottawa, where the officer who has charge of my seal resides), and gave me his opinion in writing that, in point of law, the case came within the provisions of the Extradition Treaty, and that the warrant should issue.

Seeing that the case involved no question of public policy, and was one the decision of which rested on legal points, I determined to act on the opinion of the Solicitor General.

I then looked at the date of the committal (the 22nd), and as two days appeared to have elapsed since the prisoner had been committed to jail, it seemed to me that ample time had been allowed to enable him to obtain a writ of *habeas corpus*.

I then asked the Solicitor General whether, supposing a writ of *habeas corpus* had been sued out, the signing of the Warrant of Extradition would prevent the prisoner from obtaining the benefit of it. To this Mr. Langevin replied that it would not.

Having satisfied myself on these points, I signed the warrant of extradition, which I am informed was sent to Montreal by the ordinary train from Quebec, and arrived there late in the evening of the same day.

It is scarcely necessary for me to add that when I signed the warrant of extradition I was not aware, and I am assured by him that neither was the Solicitor General, that any application had been made for a writ of *habeas corpus* on behalf of the prisoner.

These are the facts as far as they came within my own knowledge ; and it appears to me that the sole question is, whether the time allowed the prisoner between his committal on the 22nd, and the execution of the warrant late in the evening of the 24th, was or was not sufficient to enable him to obtain a writ of *habeas corpus*, in order to have the legal points in his favor considered and decided by a competent tribunal.

This matter appears to me to be at once set at rest by the statement of Mr. Justice Drummond, namely, that the case was brought before him on the 24th, and that "he would have issued the writ before adjourning had the counsel for the prisoner insisted upon it."

Had the Judge adopted this course, the prisoner would have been, according to the opinion given to me by the Solicitor General, taken into the custody of the Court, and if the Judge so decided, would have been discharged before the warrant for extradition could have been executed.

Unfortunately the Judge did not act in this manner, which I believe I am justified in saying is the ordinary practice in cases of application for a writ of *habeas corpus*, and in consequence the warrant of extradition was executed, and the prisoner was sent out of the Province.

Mr. Justice Drummond is represented as having gone in person to the prison, and forbidden the gaoler to deliver up the prisoner to any authority whatever, but it is scarcely necessary to say that the proceedings which the Judge adopted in this respect, instead of, as he might have done, immediately issuing the writ of *habeas corpus*, were entirely extrajudicial and irregular, and that no public official would have been justified in disobeying, in conformity with directions so given, the requirements of a duly executed and authenticated warrant.

Should your Lordship think that I signed the warrant of extradition with so much haste that sufficient time was not allowed to the prisoner to obtain the writ of *habeas corpus*, I feel that in this view of the case I am chargeable with the responsibility of the miscarriage which has occurred.

The third branch of the subject remains to be considered, namely the conduct of those who took part in these proceedings.

These persons are myself, the Attorney and Solicitor General for Lower Canada ; Mr. Bréhaut, the committing Magistrate ; Mr. Ramsay, the gentleman who represented the Attorney General at the investigation at Montreal ; and Mr. Schiller, Deputy Clerk of the Crown.

With regard to myself, I have laid before your Lordship without reserve every step which I took in the transaction.

I have observed an apparent desire on the part of almost all those who have discussed this subject, to protect me from blame at the expense of the Law Officers of the Crown, by the assertion that I was made the victim of a deception, and that I was surprised into putting my signature to the warrant of extradition.

The narrative which I have given to your Lordship shows that I am neither able or willing to accept any such protection.

I signed the warrant with the full knowledge of what I was doing, and in the opinion that, assuming the prisoner to use ordinary diligence in the assertion of his legal rights, he had been allowed sufficient time for that purpose.

The part which Mr. Cartier, the Attorney General, took personally in the matter was very slight. During the greater part of the time occupied in the preliminary investigation before the Magistrate, he was at Ottawa.

He was, I believe, at Montreal when the prisoner was committed, but I do not think it is alleged that he took any part in the proceedings. When the warrant of extradition was signed, and the prisoner was removed, the Attorney General was at the sea side more than 300 miles from Montreal.

The interference of Mr. Langevin, the Solicitor General, with the proceedings in the case, was confined to the two legal opinions which he gave me. The one in writing on the whole facts of the case, that the prisoner ought to be surrendered ; the other verbally, that the signing of the warrant of extradition would not interfere with the operation of the writ of *habeas corpus* if the writ had been issued before the execution of the warrant by the extradition of the prisoner.

I have not heard any insinuation against the conduct of Mr. Bréhaut in the matter, nor do I believe it is impugned.

Mr. Ramsay's connection with the case is detailed at length in his own report, and I cannot see that he has laid himself open to any charge.

Your Lordship will observe that he explains the statement in Mr. Justice Drummond's observations, by saying that his indignation was excited, and expressed at the application by Mr. Doutre of the term "kidnapping" to the regular execution of a valid legal warrant, and that he pointedly told both the Judge and the Counsel for the prisoner, that the Governor's Warrant of Extradition was the only means by which Lamirande could be removed.

I do not understand that the conduct of Mr. Schiller, the Deputy Clerk of the Crown, has been impugned.

I have thus endeavoured to lay before Your Lordship, with as much clearness and conciseness as I can command, an account of the facts of this case.

I have to express my regret that any prisoner should appear to have been removed from the Province, the affairs of which I have the honor to administer, without having secured the benefit of every privilege which our law could afford him.

I must, however, call Your Lordship's attention to the fact, that no one step has been taken in this case which, assuming the legal ground for extradition to exist, is not in strict conformity with the law.

Before Your Lordship shall decide on the merits of the share which I have had personally in this transaction, I desire to bring before your notice some general considerations affecting the duties which my position casts upon me in reference to such cases.

I assume that Extradition Treaties are based on the principle that all men have a common interest in the suppression of the crimes which are made the subjects of these international contracts.

This being assumed, it follows, in my opinion, that persons accused of crimes under Treaties of Extradition are entitled to no favor or indulgence at the hands of public officers entrusted with the execution of the law.

They are entitled to every right which the provisions of our law, strictly administered, allows them, but to nothing more.

Some stress has been laid on what is called my "promise" to the prisoner's Counsel, when he saw me at Ottawa, that time should be allowed him for making his application for a writ of *habeas corpus*.

The "promise" alluded to consisted merely of a declaration that time was always allowed for such a purpose, and that his case would not be treated differently from that of other prisoners in similar circumstances.

Had I made the prisoner's Counsel a promise that any unusual favor should be shown to him, or that the ordinary routine should in his case be changed, I should, according to my ideas, have violated my public duty.

I also wish to call Your Lordship's attention to the nature of the writ of *habeas corpus*, and the mode in which that writ is brought to bear on the execution of the laws.

The issue of the writ of *habeas corpus* is not a step in the ordinary routine of the administration of justice.

The right to obtain this writ is an extraordinary power, conferred by Statute on a prisoner, by means of which he can arrest the usual course of the administration of the law, and test the validity of the proceedings adopted against him.

But until the writ is issued, and the ordinary course of the law thereby suspended, the machine of legal administration continues to move on, and if a prisoner neglects to avail himself with proper diligence of the privileges which the Statute confers upon him, he has no right to complain if his interests suffer.

I have endeavoured to show that in this case sufficient time was allowed by me to this prisoner to assert his legal rights.

If I had allowed him more than this, I think I should not have performed my duty, and the prisoner having neglected to take advantage of the opportunity afforded him, cannot, I think, reasonably charge me with blame for the results of the supineness of himself or his counsel.

If those results were produced by the improper conduct of any persons representing

the Crown in the transaction, such persons should be held strictly responsible for their acts, but I am unable to see that this has been the case, and assuming, with Mr. Justice Drummond, that sufficient time was allowed to the prisoner to obtain the writ of *habeas corpus*, I think the conclusion is inevitable, that the blame for what has happened rests with those, who, having charge of the prisoner's interests, neglected to avail themselves of the opportunity afforded them.

I have, &c.,

(Signed,)

MONCK.

The Right Hon. the Earl of Carnarvon,
&c., &c., &c.

(Inclosure 1 in No. 2.)

Report of the Attorney General.

To His Excellency the Right Honorable Viscount MONCK, Governor General of Canada, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY,—

In obedience to the request contained in the letter of Denis Godley, Esq., your Lordship's Secretary, I have the honor to lay before Your Excellency, a copy of all the proceedings which took place before the Police Magistrate, by whom Ernest Sureau Lamirande was committed, and the report of T. K. Ramsay, Esq., and at the same time to report to Your Excellency, that I have carefully examined all those proceedings, and have no hesitation in saying that, under the evidence adduced before that Magistrate, the commitment was properly ordered.

I fully concur in the report made by the Honorable H. L. Langevin, Solicitor General for Lower Canada, advising Your Excellency that the warrant of extradition ought to issue.

I have further to remark that I have carefully perused the report of Mr. Ramsay, and that I fully agree with him in the legal arguments used by him, and the legal position taken by him, in support of the Police Magistrate's decision, and in support of the propriety and necessity of the issue of a warrant of extradition in the case.

Without entering into any of the different arguments stated by Mr. Ramsay, the principal question to be solved is, what law should apply to determine the criminality of the offence committed by Lamirande; whether it should be the criminal law of England and Canada, nearly alike, or the law of France. I consider that the offence of which Lamirande was accused came within the Treaty, for although not strictly forgery, according to the criminal law of England and Canada, yet the evidence was sufficient to establish the commission of one of the offences mentioned in the Treaty, viz., the "*crime de faux*," or forgery, as determined by the laws of France. As there exists considerable difference between forgery, "*crime de faux*" in France, and forgery according to the laws of England and this country, I am of opinion that the determining the offence according to the laws of the former country, with which the Treaty was made, was correct, the laws of France being taken to establish the crime. The contrary would, in my opinion, render the Treaty a dead letter.

With regard to any supposed irregularity in the documents produced as evidence against Lamirande, I may mention that the *arrêt de renvoi* stated to have been wanting, and the absence of which is accounted for in Mr. Ramsay's Report, by the fact of its having been abstracted in New York by Lamirande's counsel, was replaced by the next best evidence which could be produced, and which I consider to be in such case strictly legal, an authentic translation, properly certified and duly proved, bearing the initials of the Commissioners in the United States, with whom it was filed, and by whom it was used. I therefore consider that the objection made to such copy being received as evidence, is of no avail.

As to the other objections, they are amply answered by Mr. Ramsay.

With regard to the writ of *habeas corpus*, it could not be directed against the Governor's warrant, but against the commitment of the Magistrate who investigated the case; and as there was a delay of more than fifty hours between the commitment which took place on Wednesday, the 22nd August last, and the surrender of the prisoner, late

on Friday night following, ample time and opportunity were afforded to obtain the writ of *habeas corpus*. Thus the prisoner was by no means deprived of the privileges attached to the obtaining of that writ. The proceedings in matters of *habeas corpus* must be prompt and summary. By the 4th section of chapter 95 of the Consolidated Statutes of Lower Canada (24th Geo. III., cap. 1, sec. 3), the writ of *habeas corpus* must be granted at once and without any delay by the Judge to whom the request for its issue is made; and the Judge is, within forty-eight hours (two days), after the party is brought before him, bound to give his decision whether the prisoner has to be discharged or not. The prisoner had thus more time to claim and procure the issue of the writ than is given by law to the Judge to decide on the merits of the case. Besides which, the investigation had already occupied a period of more than three weeks, thus affording every opportunity for making preparation for the adoption of any course which the prisoner's counsel might have contemplated.

I respectfully call the attention of Your Excellency to the statement of Mr. Ramsay, that on Friday, the 24th August, Mr. Justice Drummond adjourned the case, of his own motion, and that the adjournment was solicited neither by Mr. Ramsay, nor by the counsel acting on behalf of the French Government; and that Judge Drummond has stated that if the counsel of the prisoner had moved for the issue of the writ on that day, he would have granted it. Thus, if any blame exists for the non-issuing of the writ, it attaches either to the Judge, if he thought it correct to issue the writ, or to the prisoner's counsel who did not move for its issue.

As the departure of the steamship on the following Saturday afforded the readiest way of conveying the prisoner out of Her Majesty's dominions, it became necessary to use great diligence after the commitment to have the warrant of extradition executed in time to enable the officer who was to take charge of the prisoner to avail himself of that conveyance. These facts being known to the prisoner's counsel, it was his duty also to have used diligence in any proceedings to be taken by him, which diligence does not appear to have been used.

Your Excellency's warrant once issued, there were no means of retarding its operation, and in its immediate execution the Sheriff, or his deputy, appears to have done no more than his duty.

Moreover, I consider that if the prisoner had been liberated under any writ of *habeas corpus*, for the reasons given in Mr. Justice Drummond's extra-judicial opinion alluded to in Mr. Ramsay's report, a failure of justice would have taken place, and that the French Government would have been in a position rightly to complain that the Treaty had not been carried out in this case.

(Signed,) GEORGE E. CARTIER,
Attorney General for Lower Canada.

Ottawa, October 17, 1866.

(Inclosure 2 in No. 2.)

Mr. Ramsay to the Attorney General.

COURT HOUSE, MONTREAL,
October 15, 1866.

SIR,—I have the honor to re-enclose you Mr. Godley's letter and the extract from Mr. Justice Drummond's judgment in the case of Lamirande which accompanied that letter.

In order that you may be enabled to convey to His Excellency complete information as to the position I assumed, I shall trouble you with a narrative of my whole connection with the matter.

On Friday, the 3rd of August last, I was informed of the arrest of Lamirande under a demand for extradition by the French Government for the crime of forgery. As I was aware of the anxiety created in England by the notice given to Her Majesty's Government of the intention of the French Government to put an end to the Extradition Treaty, owing to the failure on the part of the English authorities to give it effect, and also of the steps taken in England to induce France to abandon this resolve, although I had no special instructions from you in the matter, I thought it my duty to notify the Magistrate of my intention to watch the proceedings on the part of the Crown. Some little time after, I

met Mr. Pominville, who informed me that he was retained on the part of the French Government, and he introduced me to a Mr. Coudert, who had conducted the proceedings on the part of the French Government in the United States, where Lamirande had been arrested previously, and from which he had escaped. We had some conversation as to the accusation, and to the sort of proof that I should consider necessary to enable me to take conclusions for the extradition of the prisoner. On the 6th, the inquiry began before the Magistrate and was continued till the 15th, when the prosecution was closed. During the taking of the evidence I took little or no interest in the matter, and, indeed, was rarely present, as I did not conceive the Crown had anything to do with the means the private prosecutor took to make out his case. When, however, the case for the prosecution was closed, and the Counsel for the prisoner moved for his discharge, I opposed his application and maintained that a case within the Treaty had been made out. After a long argument the Police Magistrate refused to discharge the prisoner, and his Counsel then prayed to be allowed to adduce evidence for the defence. Although it is partly discretionary with the Magistrate to hear evidence or not for the defence, and that the ordinary practice here is to decline to admit it, I at once assented to the delay being accorded, and said that I considered extradition cases to be so exceptional in their character that evidence for the defence, when offered, should never be refused. The Magistrate then adjourned the case to the 20th. On the 20th, the prisoner was again brought up for examination, and the evidence suggested on his part was terminated on Wednesday, the 22nd, at what time I do not know, as I was not present when the evidence was closed. The Magistrate then heard the parties by their Counsel, but I took no part in the hearing as I had been heard on the 15th, and as I did not consider the new evidence had in any way altered the position of the case. After the argument, for which I did not remain, the Magistrate adjourned for an hour or an hour and a half to prepare his judgment. On his return he fully committed the prisoner for extradition.

Immediately, on the termination of inquiry before the Magistrate, I believe the private prosecutor made preparations to obtain the Governor's warrant, authorizing the extradition. And here it is necessary to say a few words. An erroneous opinion has taken largely possession of the public mind, that the prisoner to be extradited has a right to some sort of an appeal, and that the Governor General is to supervise the decision of the committing Magistrate. It is impossible to conceive a greater blunder. The action of the Governor General is not judicial, but executive. The reason he is called upon to do the last act of extradition is not that he may decide whether the evidence is sufficient, or whether the Magistrate has given a good or a bad judgment, but because the Act of Parliament may be terminated by the rupture of the Treaty, of which a Court of Justice might not have cognizance, and of which the Governor must necessarily have the earliest information, as for instance, in the case of war, which breaks all Treaties. Again, the examination of the commitment under a writ of *habeas corpus*, is not in the nature of an appeal; it is not a necessary incident to extradition, and therefore there was no call upon the prosecution, or on the Executive to give any delay at all for a proceeding which might or which might not be taken, and which is not contemplated in the Act giving effect to the Treaty.

On the morning of the 23rd, I got notice from Mr. Doutre that he would apply for a writ of *habeas corpus* on the 24th, at 1 p.m. I went to Chambers, and met both Mr. Justice Drummond and Mr. Justice Mondelet. As the latter had already had cognizance of the affair, and as he had informed me, one day I met him in a railway train, that he was going into town on purpose to be ready to hear any application that might be made in the Lamirande case, I told him that a writ was then to be demanded. With a slight air of embarrassment, they both told me that Mr. Justice Drummond would take the case; some little time after Mr. Doutre came in and made his application, to which I interposed an objection that the notice was short, stating my reason for making the objection, that as I did not represent the French Government I could not waive any right. Mr. Justice Drummond then interrupted me very rudely, saying that he would not pass the whole afternoon with such quibbling. From that moment I began to suspect that the liberation of Lamirande was a foregone conclusion, and that Mr. Justice Drummond's appearance in Chambers that day—a most unusual circumstance, for I had not seen him there once during the vacation—was not unpremeditated, and I soon became convinced that a portion of

that plan was to compel me to silence. Shortly afterwards some allusion being made to a fact in the record, Mr. Doutré asked if the papers had been sent up. I asked him if he had given notice to the Magistrate, to which he answered he had not. This, again, called forth some expression of irritability from the Judge, who declared he would not be trifled with, and he sent for the Deputy Clerk of the Crown. On the arrival of the Clerk he stated that the record had not been yet sent to the Crown Office by the Magistrate, and that the Magistrate was not then there, but that he should be sent for. It is only due to the Deputy Clerk of the Crown to say, that however intemperately given, the directions of the Judge were carried out with the utmost celerity, and in less than an hour the papers were procured from the Magistrate and brought into Chambers; and here, it may be as well to state, that we have an express enactment declaring that the Magistrate must have notice to send up his papers, and, furthermore, before the issue of the writ the Judge had no authority over the record at all.

But our Statute, copied from the old Statute of Charles, on an application for a writ of *habeas corpus*, the Judge in vacation, under a penalty of £500 in case of contravention, is obliged to issue the writ "upon view of the copy of the warrant of commitment," unless first, the commitment be for treason or felony plainly expressed in the warrant; or secondly, that the prisoner be in execution. The prisoner Lamirande was in neither category, and it was, therefore, the imperative duty of the Judge to issue his order on the writ forthwith. Had he acted as the law directs, all the difficulties which ensued would have been avoided; and the Sheriff refusing to deliver up Lamirande on the demand of the French officer, would have been within the reservation contained in His Excellency's warrant, and the responsibility of surrendering or discharging Lamirande would then have been with the Judge, upon whom it ought to rest, and not on the officers of the Executive. To relieve the Judge of the imputation of irregularity a miserable quibble has been advanced. It has been said the writ of *habeas corpus* is a writ of right, but not of course. Now what do these words signify? Simply this, that there are two exceptions, those I have enumerated, wherein he is not obliged to issue the writ on view of the copy of the warrant of commitment, to neither of which, however, did the case in point belong. Having made the mistake of taking the argument on the petition, the prisoner remained during the whole time it lasted subject to being extradited by a warrant from the Governor; which, being directed to the Sheriff, would be acted on by him, perhaps even in ignorance of the petition for a writ; but whether ignorant of the fact or not, he would at all events have no legal excuse for delaying obedience to the writ. It will, doubtless, be in your recollection that one of the most serious charges against the Chief of Police, Mr. Lamothe, after the enlargement of the St. Alban's raiders by the Judge of Sessions, was his delaying only half-an-hour to execute a warrant issued for their re-arrest by a Judge of the Superior Court acting in his capacity of a Justice of the Peace, in order that he, Mr. Lamothe, should have time to inquire as to the legality of the re-arrest. Can it, then, be pretended that the Sheriff, even if he did know that an application for a *habeas corpus* was pending, could have refused obedience to the Governor's warrant till the decision was come to? Such a doctrine would lead to the most extraordinary results, and to the destruction of all executive subordination. Besides, if a notice of an application for a writ of *habeas corpus* could thus paralyze the action of the Executive, it would be competent for a prisoner, committed for extradition, by repeated applications to defer the evil day as long as he chose.

But to return to the narrative, after the papers came up, Mr. Justice Drummond announced his intention of sitting as late as might be necessary for the hearing, and Mr. Doutré entered at great length into the case. When he had spoken for nearly an hour Mr. Drummond asked me to answer what Mr. Doutré had said, for from what he had heard he said he felt disposed to discharge the prisoner. I then replied, speaking only to the law of the case, and not occupying twenty minutes, but maintaining that the case was within the Treaty. When I had finished I mentioned that Mr. Pominville, on the part of the French Government, had something to say as to the facts. So soon as Mr. Pominville rose, Mr. Drummond said that he would adjourn the case to the next day. After the extradition it was stated boldly in one of the newspapers that Mr. Pominville had asked for an adjournment. This is totally incorrect. It was the Judge who, of his movement, ordered it (see the extract of his judgment, inclosed by Mr. Godley, where he says, "I

adjourn, &c."); and after the announcement that the Judge would sit late, this took us not a little by surprise for it was hardly five o'clock, and I had made arrangements with the Deputy Clerk of the Crown, Mr. Schiller, that he should not go so long as the Judge sat, in order that no delay should occur in issuing the writ if ordered. Within half-an-hour after the adjournment I left the Court House, and heard nothing of the proceedings till next morning about ten, when I learned that Lamirande had been removed during the night under a warrant from the Governor General. I was just going to write to the Judge to tell him that this put an end to the case, when I got a message from him to say he wanted to see me. I found him laboring under quite as much irritability as on the day before, and as he seemed desirous of finding fault with some one, and at a loss to know with whom he ought to find fault, I thought it right to tell him that had I been asked by the Sheriff, the night before, whether Lamirande ought to be given up, there being no other cause of detainer in the Sheriff's hands, I should have told him to obey the Governor's warrant immediately. I added, however, that I had not had an opportunity of giving this advice, as I had never seen the Sheriff or his deputy on the subject. It is perhaps, however, right for me to state here, that the Sheriff was not at all likely to ask my advice, for in a similar case in June I had telegraphed in, for the guidance of the Sheriff, to say that the Governor's warrant must be obeyed according to its tenor, at all hazards, and there is but one exception to the Governor's warrant, namely, that the prisoner be not detained "for any other cause, matter or thing." This answer seemed at the time to satisfy Mr. Drummond, and a few minutes after he even came to my Chambers, without there being anything in his manner indicative of violent feeling. It was therefore, a new surprise for me, when on the return of the *habeas corpus*, which, he it observed, he issued after he was well aware of the removal of the prisoner, he indulged in a most unmeasured attack on the officer of justice who had conducted the prosecution.

As a report of this attack got into the newspapers, I thought it my duty to reply in a letter addressed to the "*Montreal Gazette*," a copy of which is appended, marked "A," so that these most injurious and libellous accusations should not go abroad uncontradicted.

On the 27th, Mr. Justice Drummond having determined to give a judgment in the case, although there was no prisoner, and no order could be made, actually took possession of the Court of Appeals, where he has only a right to sit as one of five Judges, and there, before a great concourse of people, read a judgment, and made observations, which I am informed, for I had declined to be present, were correctly reported in the *Herald* of the 29th. It is from this report, the extract inclosed in Mr. Godley's letter is taken. I was not present when the words mentioned in the inclosed extract were used; but so soon as I saw the report, I replied to the renewed attack by a letter in the *Gazette*, "B," and in that letter is to be found my answer to the portion of the Judge's remarks, adverted to by Mr. Godley. The indignation I expressed was at the use of the word "kidnap" by Mr. Doutre, and I at once told him that it was idle to talk of kidnapping, for that the prisoner could only be removed by one process, that is on the warrant of the Governor General.

Had the distinctions thus established before the extradition, been observed afterwards, much foolish declamation would have been avoided, and much ill-feeling prevented.

To affirm that a man removed by process of law is kidnapped is nonsense; and to affirm that Lamirande was kidnapped is to beg the question.

Having recapitulated the main facts of the case in order to give you a full idea of the position I took, it only remains for me to refer to the legal considerations which induced me to regard the case as coming within the Treaty.

The only question that gave rise to any solicitude on my part was the question of whether, the offence not being forgery by our law, Lamirande could be extradited for forgery by the law of France, and, if so, whether we should take the law of France, as stated in the *arrêt de renvoi* and the French affidavit, or oblige the prosecution to make further proof of the constituents of forgery by the law of France. It would probably have been agreeable to the prosecution had I adopted the view that the offence charged was forgery by our law, or even had I left my opinion as to the nature of the offence doubtful; indeed, one of them, Mr. W. Coudert, battled long and earnestly to bring me to the conclusion that it was, but I unhesitatingly stated my opinion, on the 15th, when the case for the Crown was closed, that forgery by the law of England, had not been brought home to the prisoner,

and that the question to be decided was, whether he could be extradited on the proof of forgery according to the law of France.

The issue was thus narrowed down to a very small point, and, as I have said, there was no equivocation as to the view of the case taken by me. It is true much time was wasted in the discussion of whether the demand by the French Consul was legal, and as to whether the evidence was sufficient to maintain the accusation. It was also pretended that the French detective ought to be actually in possession of a French warrant of arrest.

The whole of this part of the discussion appeared to me idle in the extreme. It is not necessary to be a lawyer to know that the authority of the French Consul to demand the extradition was an executive, and not a judicial question, and one in which the prisoner could not have any legitimate interest. It is a stipulation in favor of the power from which the extradition is sought, and not in favor of the prisoner.

Again, as to the evidence of the falsification, nothing could be more complete, and it was not even seriously denied. As I found myself under the necessity of answering publicly, on the first of September, Mr. Justice Drummond's extra-judicial opinions expressed on the 29th in the Court of Appeals, I shall now repeat the argument I then used. Before doing so, however, there is one point to which I have not there adverted; and it is whether the prosecution was bound to prove the foreign law by testimony. I think not, and that it is not competent for the Judge here to go behind the French warrant. But, at any rate, this was not insisted upon seriously at the time, and, besides, it is not strictly true that there is no evidence of the French law, for the French deposition on which the proceedings in France were based, after setting up the facts, calls it forgery.

Mr. Justice Drummond said:—

“My decision to discharge him was founded on the reasons following:—

“First, because it is provided by the first section of the Act of the British Parliament to give effect to a convention between Her Majesty and the King of the French, for the apprehension of certain offenders (6 and 7 Vic., cap. 75); that every requisition to deliver up to justice any fugitive accused of any of the crimes enumerated in the said Act, shall be made by an Ambassador of the Government of France, or by an accredited Diplomatic Agent, whereas, the requisition made to deliver up the petitioner to justice has been made by Abel Frederic Gautier, Consul General of France in the Provinces of British North America, who is neither an Ambassador of the Government of France nor an accredited Diplomatic Agent of that Government, according to his own avowal upon oath.”

In the first place, it is evident that, if the requisition must be made by an Ambassador, and it must be this the Judge means, it renders the Treaty inapplicable in all the Colonies. In the next place, the Statute does not use the term employed by the Judge. It is not said a requisition “shall be made.” In the Statute there is nothing imperative; the form is purely directory. It says:—“That, in case requisition be duly made, pursuant to the said Convention, in the name of His Majesty the King of the French, by his Ambassador or other accredited Diplomatic Agents, &c., it shall be lawful,” &c.

Now, every one knows that, in the interpretation of Statutes, there is a wide difference between what is directory and what is imperative (2 Devarris, page 713); and it is often a question of great nicety to decide whether a particular clause is the one or the other. But technically, the question stands thus: On the part of the prisoner it was pretended that the requisition by an Ambassador was a condition precedent imperatively fixed by Statute, without which the Governor's warrant was a nullity.

On the part of the prosecution it was maintained that the words were purely directory; that the necessity of a requisition was established in favor of the power called upon to extradite, and that consequently it was for the Executive of that power to decide whether a sufficient requisition had been made, and that it was in no way competent for the Court to go behind the Governor's warrant, directing all Justices to aid in the apprehension of the prisoner.

It was further mentioned, that this interpretation was not only agreeable to the general objects of the Statute, and conformable to the principle of interpretation already laid down, but that it also appeared, by other words in the Statute, which goes on to say that, this requisition being made, the Governor is authorized “by warrant under his hand and seal to signify that such requisition has been so made, and to require all Justices, &c.”

Besides, if this question were not to be settled by the signification of the Governor, how is it to be established in any case that the requisition was made by a "Diplomatic Agent." The warrant cannot contain the proof otherwise than by the declaration it contains; will it, then, be pretended that, being denied on the part of the prisoner, the Ambassador or other Diplomatic Agent will be obliged to file his credentials? Mr. Drummond's holding implies so much. But who ever heard of the credentials of a Diplomatic Agent being judged of by any one but the Executive with which he has been put in relation? Does not the very expression "accredited Diplomatic Agent" used in the Statute, exclude all doubt? It is necessary to ask, by whom is credit to be given? It therefore would appear, that Mr. Justice Drummond's first point is a blunder, and that "a poor Magistrate who never pretended to read the law," may be nearer right than he.

The Judge goes on to say :—

"Secondly. Because by the 3rd section of the said Statute it is provided that no Justice of the Peace, or any person, shall issue his warrant for any such supposed offender, until it shall have been proved to him upon oath or affidavit, that the person applying for such warrant is the bearer of a warrant of arrest, or other equivalent judicial document, issued by a Judge or other competent Magistrate in France, authenticated in such manner as would justify the arrest of the supposed offender in France upon the same charge; or, unless it shall appear to him that the act charged against the supposed offender is clearly set forth in such warrant of arrest or other judicial document; whereas, the Justice of the Peace who issued his warrant against the petitioner issued the same without having any such proof; the only document produced before him, as well as before me, in lieu of such warrant of arrest or equivalent judicial document, being a paper-writing, alleged to be a translation into English of a French document, made by some unknown and unauthorized person in the office of counsel for the prosecutor, and bearing no authenticity whatever."

The law and the Judge's commentary are so mixed up, that for a proper understanding of the question, it is necessary to reproduce the terms of the Statute, which are as follows :—

"Provided always, that no Justice of the Peace or other person shall issue his warrant for the apprehension of any such supposed offender until it shall have been proved to him, upon oath or by affidavit, that the party applying for such warrant is the bearer of a warrant of arrest, or other equivalent judicial document issued by a Judge or competent Magistrate in France, authenticated in such manner as would justify the arrest of the supposed offender in France upon the same charge; or unless it shall appear to him that the acts charged against the supposed offender, are clearly set forth in such warrant of arrest, or other equivalent judicial document."

Now, the Judge's interpretation, following Mr. Doutré, is that there must be an affidavit or deposition by the bearer of a warrant of arrest, declaring that he has this French warrant or other equivalent judicial document, out to say this is to ignore the alternative italicized above; the critical reading of the Statute being, that this Magistrate shall not proceed to apprehend, even on the reception of the Governor's first warrant, either until it is established by oath or deposition that the person applying is the bearer of a French warrant, or other equivalent document; or unless it shall appear to the Magistrate that such warrant exists. This, too, is consonant with common sense, which Mr. Justice Drummond's reading is not. Had the Magistrate not the alternative of acting without the actual presence of the French warrant, the prisoner would infallibly escape, even when he could not find an enthusiastic Attorney to purloin it; for all he would have to do would be to keep out of the place where this dangerous document was, and as but one person could be the "bearer" of it, so only one person could be effectually employed in the pursuit.

It is easy to understand why rogues and their counsel should maintain such a strained interpretation of a Statute, but it is inconceivable that a Judge should be found to adopt it. The translation of the *arrêt de renvoi* was never filed by the prosecution as a substitute for a warrant, because the prosecution never admitted that such warrant was required; but in the absence of the original, which had been made away with by the prisoner's counsel in *New York*, it was produced to justify the Magistrate in committing him. The *arrêt de renvoi* being an indictment, as we should say, it presumes a warrant of arrest, or

other judicial document, and therefore, under the express words of the Statute, justified the Police Magistrate in acting.

Mr. Drummond continues :—

“3rd. Because, supposing the said document purporting to be a translation, an *acte d'accusation* or indictment, accompanied by a pretended warrant of arrest, and designated as *arrêt de renvoi*, to be authentic, it does not contain the designation of any crime comprised in the number of the various crimes for or by reason of the alleged commission of which any fugitive can be extradited under the Statute.

“4th. Because, by the first section of the said Act it is provided that no Justice of the Peace shall commit any person accused of any of the crimes mentioned in the said Act, (to wit, murder, attempt to commit murder, forgery, or fraudulent bankruptcy), unless upon such evidence as, according to the laws of that part of Her Majesty's Dominions in which the supposed offender shall be found, would justify the apprehension and committal for trial of the person so accused, if the crime of which he shall be accused had been then committed. Whereas, the evidence produced against the petitioner upon the accusation of forgery brought against him before the committing Magistrate, would not have justified him in apprehending or committing the petitioner for the crime of forgery, had the acts charged against him been committed in that part of Her Majesty's Dominions where the petitioner was found, to wit, in Lower Canada.

“5th. Because the said warrant for the extradition of the petitioner, as well as the warrant for his apprehension, does not charge him with the commission of any one of the crimes for which a warrant of extradition can be issued under this Statute, inasmuch as in both of the said warrants the alleged offence is charged against the petitioner as “forgery,” by having, in the capacity of cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the Bank, and thereby defrauded the said Bank of the sum of 700,000 francs ; whereas the said offence, as thus designated, does not constitute the crime of forgery according to the laws of England and Lower Canada, for, to use the words of Judge Blackburn when he pronounced judgment concurrently with Chief Justice Cockburn and Judge Shee in a case analogous to this (*Ex parte Charlotte Windsor*, Court of Queen's Bench, May, 1865), ‘Forgery is the false making of an instrument purporting to be that which it is not; it is not the making of an instrument purporting to be that which it is; it is not the making of an instrument which purports to be what it really is, but which contains false statements. Telling a lie does not become a forgery because it is reduced to writing.’”

Those three paragraphs really contain the great question of this case. In enumerating the offences for which an accused person may be extradited, must we look for the constituents of the offence to the law of the country violated, or to that in which the extradition is demanded? Much is to be said on both sides of this question ; and there can be no doubt that in dealing with the American Treaty, and particularly so long as slavery existed in that country, it was necessary for the great common law felonies, such as murder and manslaughter, to look to the common law of England as a guide. And of this the Americans could not, and cannot complain, for they take their common law from us ; and therefore in using an English common law term, they must be supposed to use it with the common law signification. This was the view taken in the Anderson case, and rightly. We would not tolerate that the people of a Southern State of the Union should convert manslaughter into murder by the existence of a system condemned, long previous to the Treaty, by the public morality of the Empire. About the intention too of this law, giving effect to the American Treaty, there was no doubt. It had been fully discussed in Parliament, when the bill was passed, and distinctly admitted on all hands that, in a case such as Anderson's, the fugitive would not be delivered up.

With regard to the French Treaty the question is totally different. There is no common origin for the two laws ; and, consequently, when the term does not express the same offence in both countries, there is no reason for making the definition according to the law of the one rather than of the other. But, in addition to this, it is perfectly clear that in the English Statute the law of France was not ignored, but to make this apparent to the general reader, we must proceed to details. The crimes enumerated, for which extraditions may be sought, may be divided into three categories for the purpose of this examination :—

1. Murder, for which the equivalent is distinctly set up in the Statute ; it comprehends the terms, "assassination, parricide, infanticide, and poisoning."

2. Fraudulent bankruptcy, which has no equivalent in the criminal law of England at all.

3. Forgery, which has not at all the same signification in France and in England.

Now, if it be true that, with the exception of murder (the meaning of which is thus absolutely defined), the law of England was alone contemplated, the mention of fraudulent bankruptcy was a mere farce. It must, however, be said, in support of Mr. Justice Drummond's opinion, that even this view has been held ; and a Solicitor-General in Lower Canada formerly gave it as his opinion that we should not extradite in cases of fraudulent bankruptcy, there being no such crime known to our laws ; and we believe that this opinion was acted upon in several instances. On the other hand, it must be said that, the latest case in England, under the Treaty, is for the extradition of a fraudulent bankrupt. (*Ex parte Widemann*, in the Weekly Notes of the 30th June, of this year). It is thus plain, that in England, it is not settled that the offence must be one under the laws of England.

The same argument will apply to forgery ; if not to the same degree, at all events, to a very great extent. Forgery in France and forgery in England are perfectly different, and this is very natural. A mere misdemeanor at common law, forgery, has been so altered that now almost every forgery is a felony, and many things which were not crimes are now forgeries. The same thing has taken place in France, so that to refuse to give up a man accused of a particular kind of forgery, because it was not common to both laws, would be almost to annul the Treaty in so far as regards that offence. But it is said that the Statute is imperative ; they rely on this passage : "Upon such evidence as, according to the laws of that part of Her Majesty's Dominions, would justify the apprehension and committal for trial of the person so accused if the crime of which he or she shall be so accused had been committed, it shall be lawful for such Justice of the Peace, or other person having power to commit as aforesaid, to issue his warrant for the apprehension of such person, and also to commit the person so accused to gaol, there to remain until delivered, pursuant to such requisition as aforesaid."

Now this clause does not bear out the pretension, and if it did, it would be applicable to fraudulent bankruptcy as well as to forgery, and Mr. Dunbar Ross' opinion, when Solicitor General, would be correct.

But this, we see by the Widemann case, is not the view now taken in England.

To make Mr. Justice Drummond's dictum agree with the Widemann case, we should require to make a distinction not to be found in the law, which it should be unnecessary to remind "a Judge who has read the law," it is against all principle. "*Ubi lex non distinguit, nec nos debemus distinguere.*" But do the words cited bear out Mr. Drummond's reading ? We maintain they do not. Their only meaning is this : That there must be sufficient evidence to justify the Magistrate in committing, had the offence been an offence here and been committed here. In other words, it is a caution to the Magistrate to deal with the case as he would with any other preliminary examination for an alleged crime here. How it could have got abroad that he has any other duty than that one, almost purely ministerial, which he performs daily in dealing with those accused of crime here, we cannot imagine, unless it be explained by the jealousy that exists on the subject of extradition in England, as Lord Clarendon said in the House of Lords, when the bill was recently introduced to give greater effect to the French Treaty.

Another of the points made was that we had not the *arrêt de renvoi*.

I have already shown that it was not necessary for us to have it ; but even if it had been necessary to produce it before the committing Magistrate in ordinary cases, it certainly would not have been so in this case. It is in evidence that the *arrêt de renvoi* had been made away with by Mr. Spilthorn, the prisoner's Counsel at New York (he does not venture to deny the taking), and that being proved, it was competent for us to give the next best evidence at our disposal which undoubtedly was the translated copy of the *arrêt de renvoi* prepared for the United States Commissioner, and initialed by him as one of the documents of his record.

But the real question now is, not whether the law as laid down by the Police Magistrate judicially, or that expressed by the Judge extra-judicially, is correct. The only person legally seized of the question, and who could give a judgment, decided for the ex-

tradition, and it therefore only remains to enquire whether that decision was carried out in a lawful manner or not. I am quite ready to admit, with the most violent of the papers here, that the act was one which if not legal was kidnapping, but I think it has been made sufficiently clear that the act of the Sheriff in giving him up was not only justifiable, but the only course he could lawfully pursue.

The absurdity of the pretension that notice of an application for a writ of *habeas corpus* served upon me, was to have the same effect as a writ served upon the gaoler, is too transparent to deserve comment. But it has been said there was indecent haste, and that the Governor General had promised time to apply for a writ of *habeas corpus*, as Mr. Doutre somewhat untechnically calls it, time to bring the case before higher tribunals. As for matter of haste, it is expressly enjoined in the statute giving effect to the Treaty (6 and 7 Vic., Cap. 75, sec. 4, that the prisoner is to be removed out of Her Majesty's dominions in the readiest way. Now the readiest way and the only way of sending Lamirande out of Canada was by the river, and as the steamer was to sail on the morning of Saturday, the 25th, it was obviously incumbent on those representing the French authorities to lose no time in procuring the Governor's warrant, so as to take advantage of that mode of conveyance. The escape of Lamirande from custody in the United States, the day before the Commissioner was to pronounce judgment upon his case, and the presence here of his Counsel, Mr. Spilthorn, whose extraordinary proceedings relative to the *arrêt de renvoi* at New York have already been remarked, were additional reasons for inducing the agents of the French Government not to allow time for further machinations. As to the alleged promise of the Governor General I have, of course, nothing to say but this, that even if made in the terms Mr. Doutre alleges, it was fully redeemed, for ample time was given to get out the writ, and if its issue was delayed till Tuesday, the fault must be between Mr. Doutre and the judge, the latter of whom does not hesitate to state that if Mr. Doutre had insisted, he would have issued the writ on the 24th, Friday.

To this Mr. Doutre may fairly reply, that if he had a right to the writ before the argument it was unnecessary for him to insist, his application should have been enough.

I do not care to take up your time in offering any apology for the part I have taken in this affair, for I feel that my acts speak for themselves; but I may be permitted to say a word on one piece of criticism by the Judge. He said it was my "duty to inform the Governor that a writ of *habeas corpus* was demanded." But why more in this case than any other, or am I in all cases of Extradition to keep the Governor advised by telegraph of each step of the procedure? Besides, if Mr. Doutre's story be true, the case in question is the very last in which an exceptional proceeding on my part was required, for it would appear, that so far back as the 3rd of August, Messrs. Doutre and Doutre had appealed to the Governor General to protect their client, whom they then called "Felix Gastier," and later, on the 15th, we find M.M. Doutre and Daoust again informing the Governor General, that it is their intention "to appeal to higher tribunals" in favor of their client, whose name then turned out to be Ernest Sureau Lamirande, the well known fugitive from Poitiers. Instead of attempting to fix on the Governor General the imputation of not having kept his word, Mr. Doutre would do well to explain how it came to pass that Doutre and Doutre should petition on the 3rd of August for Felix Gastier, and that Doutre and Daoust should petition for the same man, under the name of Ernest Sureau Lamirande on the 15th.

I have, &c.,

(Signed,)

T. K. RAMSAY,

Advocate prosecuting for the Crown, District of Montreal.

To the Hon. George Et. Cartier, Attorney General,
Lower Canada, Ottawa.

(A.)

To the Editor of the Montreal Gazette.

SIR,—The *Herald* of this morning contains two columns of the report of a pretended judicial proceeding in the Lamirande case, accompanied by a characteristic attack on the Attorney General. It is very plain that the declamation of Mr. Justice Drummond and Mr. Doutre, *à propos of nothing*, (for there was no case, and neither of them ventured to

move for or take any rule or other proceeding,) was simply intended to give Mr. Cartier's enemies a pretext for abusing him; so impossible is it, without rectitude of purpose and complete sobriety to overcome the recollections of political defeat. But my object is not to review or attempt to answer the contradictions and absurdities of these tirades. I feel perfectly satisfied, that nothing I can say or write, will ever prevent Mr. Justice Drummond from at all times preferring effect to truth, and therefore my explaining to him that to call the giving up of a prisoner on the warrant of the Governor, kidnapping, is simply a naked falsehood, would be a pure waste of time. I shall therefore, briefly state, how and why Lamirande was given up, and from that it will at once be obvious, that the outcry of Mr. Drummond and Mr. Doutre is simply beside the question.

We have a Treaty with France, enforced by an Imperial Statute, by which we agree to give up persons accused of certain offences therein enumerated. The procedure is this: The French Government claims the extradition of the accused, and the Governor (in the Colonies) issues his warrant, charging all Justices and officers of Justice to aid in the capture of the fugitive. On his apprehension he is brought before a Magistrate, who deals with the charge, or who ought to deal with it, precisely as if the offence had been committed here, this being done, the prisoner is either fully committed, or he is discharged. If committed, the papers are forwarded to the Government, and the Governor issues his warrant for the extradition of the prisoner, who is at once delivered up, provided there be no other cause (*i. e.* criminal cause) for his detention. It is an error to suppose that there is any right of appeal from the decision of the Governor; but if application is made in proper time a writ of *habeas corpus* may be procured, which would have the effect of bringing the prisoner before the Court or Judge to examine into the cause of his detention. In Lamirande's case no such writ was either granted or issued, and therefore it is positively untrue that the prisoner was in the hands of the Court or Judge, as Mr. Drummond said. Without this writ there was no power known to the law to stop the execution of the Governor's warrant, and this I at once explained to Mr. Justice Drummond, in Chambers, on Saturday morning, when he first spoke to me on the subject. I then told him that had the Sheriff consulted me, which he did not, I should have advised him to obey the warrant without a moment's loss of time. So unanswerable was this, that Mr. Drummond, shifting his ground, said he had put in a commitment before the removal of the prisoner; but I afterwards found that what he was pleased to call a commitment was no commitment at all, but an order not to deliver Lamirande up on any warrant whatever. What renders this proceeding doubly ludicrous is, that Mr. Justice Drummond was the person most terribly severe upon Mr. Justice Mondelet, for his order in the Blossom case; yet when Mr. Mondelet gave that order he was sitting at the Court of Queen's Bench, whereas, when Mr. Drummond gave his he was prowling about the town at night without any official character whatever, but that of a Justice of the Peace. On Saturday afternoon Mr. Justice Drummond again shifted his ground, and he was pleased to tell me that it was my duty to interfere in some way or another, and prevent the Governor's warrant taking effect. For Mr. Justice Drummond's information, let me say that when I seek a guide as to duty I shall endeavour to select some one more immaculate than him; but, in so far as regards the present case, I may add that I was very unlikely to commit an illegality to prevent the extradition, inasmuch as I highly approved of it.

And now, one word as to the prisoner. Lamirande was cashier of the Bank of France, at Poitiers, and he there robbed his employers of 700,000 francs (28,000*l.* sterling), falsified books and entries (forged as the French Court calls it), and fled to the United States. Being arrested there and about to be extradited, he managed to drug his guard and escaped to Canada, while his lawyer stole the *arrêt de renvoi*, or French indictment, which formed part of the record before the Commissioner. And this is the person for whom Mr. Justice Drummond felt so lively a personal interest as to induce him to abandon the retirement of his home and endure the fatigues of sitting in Chambers, for, I believe, almost the first time since the beginning of vacation.

While talking of conspiracy it would be, however, interesting to learn from Mr. Drummond, at whose invitation he undertook to adjudicate in Lamirande's case? The effort was not unpremeditated, for the interesting fact was duly heralded on Friday morning.

Your obedient servant,

Montreal, August 27th, 1866.

(Signed),

T. K. RAMSAY.

(B.)

To the Editor of the "Montreal Gazette."

SIR,—In this morning's issue of the "Herald," I find the following sentence:—

"That he (the Judge) did not do so (issue the writ of *habeas corpus* at once), therefore, was plainly due to a representation by the advocates for the prosecution, one of them representing the Attorney General, which if not false in word was false in intention, and had all the effect of falsehood upon the Court, whom these gentlemen were bound to assist instead of deceive."

It is of course of very little importance to me what gloss it may be convenient for the editors of the "Herald" to give to a very simple transaction; but it is, perhaps, as well the public should know that Mr. Kirby, one of the editors of the "Herald," was present in Chambers on Saturday afternoon, when Mr. Justice Drummond made the utterly unfounded statement that anything was said by me to give Mr. Doutre to understand that the prisoner would not be given up on the arrival of the Governor's Warrant. I then immediately rose and contradicted Mr. Justice Drummond's statement in the most pointed manner; and, moreover, I repeated the conversation which took place, which was to this effect, and as nearly as I recollect in these words:—I said, "it was idle to talk of kidnapping (the expression used by Mr. Doutre), for the prisoner could only be removed by one process, that is, on the warrant of the Governor General." I thus pointed out specially to the Judge and Mr. Doutre, the single peril to which the prisoner was exposed, and Mr. Drummond did not venture in my presence to contradict my statement of the facts. It is, therefore, gross bad faith on his part, and on that of the writer in the "Herald," to renew an accusation which the Judge could not stand to the head of when first made and denied. The fact is, Mr. Justice Drummond and Mr. Doutre are anxious to throw on my shoulders the responsibility of their own blunder. They had the means, or at least the Judge had, to stop the extradition without the interference of any one, and now he is furious because the gaoler, or I, or some one else, did not rush in to accept no end of responsibility to cover over his *laches*. In one place Mr. Justice Drummond suggests that "the gaoler might have waited till morning;" in another, "that it was my duty to inform the Governor that a writ of *habeas corpus* was demanded!!" and after all this bombast, even after the delivery of the judgment, which ordered nothing, this is all that can be said.—Somebody might have done for Mr. Drummond what he ought to have done for himself.

It is not my intention at present to dwell on the extra-judicial opinions expressed by Mr. Justice Drummond yesterday. With the public they will probably be differently estimated; but he is reported to have made one statement which I cannot pass over in silence. He says, "in fact, some persons engaged in the prosecution of this man for forgery have themselves been instrumental in a falsification of one of the most solemn documents that can be issued by the Governor General." In answer to this I must state, without the least reserve, that this is the most audacious calumny I ever heard of in my life, for it impugns the authenticity of the Governor's signature, and of the Great Seal of the Province. No man knows better than Mr. Drummond that when the Governor is absent from the Seat of Government, official documents are recorded, sealed and dated at the Seat of Government, and forwarded to him for his signature. This was the practice when Mr. Drummond was Attorney General, and one which was followed during the absence of the Governor last winter when the Government was administered by Sir John Michel, who lived at Montreal.

In leaving this discussion to the arbitrament of the public, I shall permit myself to prophecy that no further proceedings of any kind will be taken in this matter, and for this very good reason that there is no room for any. Had there been anything wrong that could be taken hold of, will any one believe that Mr. Justice Drummond would have vacillated so many days between declarations of its not being for him to take the initiative, and threats of terrible measures for the 24th.

Your obedient servant.

(Signed,)

T. K. RAMSAY.

Montreal, August 29th, 1866.

(Inclosure 3 in No. 2.)

Mr. Bréhaut to the Honorable the Provincial Secretary.

POLICE OFFICE, MONTREAL,

August 22, 1866.

SIR,—I have the honor to transmit herewith, the depositions and other documents in the case of Ernest Sureau Lamirande, for extradition.

I have, &c.,

(Signed,)

W. H. BREHAUT.

Police Magistrate.

The Honorable the Provincial Secretary,
Ottawa.

Special Sessions of the Peace.

(Translation.)

Before William H. Bréhaut, Esquire, Police Magistrate;

In the case of Ernest S. Lamirande, for extradition.

The prosecution having declared that it has no other evidence than that contained in the record, the prisoner reserving the right of adducing evidence if the present application is not granted, demands his release, as there is nothing to justify his further detention.

(Signed,)

JOSEPH DOUTRE,

Advocate for the prisoner.

Montreal, 15th August, 1866.

(No. 3.)—*Copy of a Despatch from Viscount Monck to the Right Honorable the Earl of Carnarvon.*

QUEBEC, October 25, 1866.

(No. 173.—Received, November 7, 1866.)

MY LORD,—Referring to my despatches, No. 155, of the 6th October, and No. 164, of the 18th October, I have the honor to transmit, for your Lordship's information, three extracts from the *Montreal Herald* of September 25th, October 18th, and October 22nd, containing reports of what took place on those days in the Court of Queen's Bench at Montreal, respecting the necessity for notice in applications for the writ of *habeas corpus*.

I have, &c.,

(Signed,)

MONCK.

The Right Honorable the Earl of Carnarvon,
&c., &c., &c.

(Inclosure in No. 3.)

(Extracts from the Montreal Herald.)

(The Lamirande Case—Court of Queen's Bench.)

This morning (September 25), before the Judge (Mr. Justice Drummond) took his seat, the Court was crowded with professional men and others, attracted by the expectation of a lively discussion respecting the Lamirande case.

Mr. Doutre, Q.C., said there was a reference in the charge to the Grand Jury in the Lamirande case. All the difficulty in this case had arisen from the practice of requiring twenty-four hours' notice in an application for writ of *habeas corpus*. In order to show the working of that rule and the necessity for its abrogation, he would communicate to the Court documents which would make it manifest that as long as that rule existed there was no human means of protecting the liberty of a person claimed under Extradition Treaties. While the proceedings were going on before the Police Magistrate, it was easily seen that, law or no law, Lamirande would be committed for extradition. In these circumstances and in view of the present rule, it was felt that there would be a surprise attempted, and, to guard against this, a petition was presented to His Excellency pointing out the facts of the case, and an acknowledgment was received stating that the petition had been referred

to the Attorney-General East's Department. To confine himself to written documents and not referring to what took place at Ottawa, he would read the following report:—

"On the 29th August, 1866, the undersigned, Joseph Doutre, Q. C., and C. L. Spilthorn, Attorney and Counsellor-at-Law, had the honor of meeting His Excellency the Governor General of Canada, &c., at Quebec, in relation to the extradition of Ernest Sureau Lamirande, claimed by France as a fugitive criminal.

"In that interview, His Excellency acknowledged that Mr. Spilthorn, one of the undersigned, having presented a petition from the said Lamirande to His Excellency about the 17th of August, 1866, in Ottawa, praying His Excellency that in case he (Lamirande) should be committed for extradition by the Police Magistrate then investigating the matter, he (Lamirande) should be allowed the necessary time to submit his case to higher tribunals for examination under a writ of *habeas corpus*. His Excellency had then and there told Mr. Spilthorn that ample time would be allowed to Lamirande for the purpose of submitting his case, as mentioned in the said petition."

(Signed,)

"JOSEPH DOUTRE.

"C. L. SPILTHORN.

"Montreal, September 11, 1866."

To this the following acknowledgment was received:—

QUEBEC, 12th September, 1866.

"SIR,—I have the honor to inform you that I have laid the paper which you inclosed to me in your letter of the 11th instant before the Governor General, and I am to acquaint you that it is therein correctly stated that His Excellency told Mr. Spilthorn that ample time would be allowed to Lamirande to obtain a writ of *habeas corpus* before the execution of the warrant for his extradition."

"(Signed,)

DENIS GODLEY,

"Governor's Secretary."

His Honor said he had seen this official acknowledgment before bringing it as a fact before the Grand Jury.

Mr. Doutre said he presumed the reference in the charge was founded on that document. It was, however, matter of notoriety that notwithstanding all these precautions Lamirande was carried off. The facts connected with this case would have to come before this or some other tribunal. He had asked His Excellency's permission to lay the whole of the documents before the public, so that it might be seen what influence had been brought to bear to induce His Excellency to sign the warrant on the morning after the decision had been come to by the Police Magistrate. His Excellency, however, had himself expressed a desire that they should not be published, so that he felt relieved from the necessity of explaining how the warrant of extradition had been signed so hurriedly, notwithstanding the solemn promise of the Governor General. In the case of persons remaining in gaol no prejudice could arise from the twenty-four hours' rule, but in this case it was very different. He had prepared a petition to abrogate this rule, which was in substance that the case of Lamirande, forming part of the record of this Court, had shown that the notice of twenty-four hours for a writ of *habeas corpus* had been subversive of the effects of that writ in matters of extradition, and prayed that the rule should be abrogated for the future in cases of this kind.

Mr. Ramsay said that notice ought to be given before anything be done so that the Attorney-General might take cognizance of it. It was a petition proposing a change of the whole practice of the Court, which had existed for years. It proposed to shorten the time which existed even in England, and the time here is not twenty-four hours, but one day. It would be better that the practice of giving no notice be adopted, and let the writ issue at once on application.

His Honor said that this was an error, and that a very serious mistake was committed on this point. The writ of *habeas corpus* was a writ of right, but did not issue as a matter of course. Most unjustifiable attacks had been made upon a Judge of this Court because he had not issued a writ of *habeas corpus*. The Judges took the law from the books, and not from scribblers in the newspapers. The opinion of Chief Justice Wilmot was worth more than that of men who had pronounced an opinion without having seriously studied the question. Of course the change would not be made without due consideration. There was much to be said on both sides, but care ought to be taken that no opportunity should

be afforded of entrapping and carrying off men under a plea of a legal difficulty. The petition would be considered, but he did not contemplate that there would be any change in the rule, except after due consideration by all the Judges of the Court.

From the "Montreal Herald," of October 18, 1866.

Presiding:—Mr. Justice Drummond. Practice in *Habeas Corpus*.

His Honour said that, seeing Mr. Doutre in Court, he wished to inform him that they all appeared to have been under a mistake regarding this matter, the petition stating that there was a rule of practice which he wished altered. There was, he found, no rule of practice in issuing these writs. After consultation with his colleagues, he would now say, that while there was no rule, yet that the Judges would follow the course hitherto pursued unless where a case was shown requiring haste, in which case the writ would at once issue, due notice being given to the Attorney General as usual before any decision would be given.

Mr. Doutre said he had stated there was a practice which had the force of a rule. He would wish to be heard before any decision on the petition was given.

Mr. Ramsay said, we do not care about notice before the issue of the writ. He had always advocated the issuing of the writ immediate. There was a financial reason for the Crown desiring this.

Court of Queen's Bench, September Term.

Present:—Their Honours Justices Drummond, Badgley, and Mondelet.

October 20, 1866.

Practice in *Habeas Corpus*.

Mr. Doutre, Q.C., applied to have a decision rendered on his petition to change the rule of proceeding in application for a writ of *habeas corpus*.

Their Honours severally stated that no rule existed on the subject, further than that the writ might issue at once or notice be previously given, in the discretion of the Judge before whom affidavits were laid. The practice of giving notice to the Crown had always been in existence, but whether the notice should be given before or after the issuing of the writ was, in all cases, matter for consideration. Each case must be judged by its merits. Mr. Doutre would therefore take nothing by his motion.

No. 4.—*Copy of a Despatch from Viscount Monck to the Right Honorable the Earl of Carnarvon.*

QUEBEC, October 25, 1866.

(No. 174.—Received, November 7, 1866.)

MY LORD,—I have the honor to transmit to Your Lordship a copy of a letter which I have received from Mr. Doutre, who was counsel for Lamirande in the legal proceedings that have lately taken place, together with a copy of the reply which I caused to be returned to it. All the documents in Lamirande's case are easily accessible to Mr. Doutre, except the opinions and reports of the Law officers of the Crown; and in declining to communicate to him those opinions and reports, I believe that I have followed the invariable practice under similar circumstances, both in England and Canada.

I have, &c.,

(Signed)

MONCK.

To the Right Hon. the Earl of Carnarvon,
&c., &c., &c.

(Inclosure 1 in No. 4.)

Mr. Doutre to Viscount Monck.

MONTREAL, October 24, 1866.

MY LORD,—Since my letter of the 22nd instant, I have received through my agents in London an official notice of the request made to Your Excellency by the Secretary of State for the Colonies, concerning the Lamirande extradition case. The absence of my client imposes upon me the duty of adopting measures of protection both in England and

France; and I feel that I am quite inadequate to the discharge of that duty if I do not procure copies of the official documents which are sent or about to be sent to the Secretary of State for the Colonies. It will be obvious to Your Excellency that I have no idea of asking copies of any remarks, reports or communications from Your Excellency to the Secretary of State; but I humbly submit that it would be an act of justice to my client to let me have copies of the other documents sent to England, in compliance with the request of the Secretary of State for the Colonies.

I have, &c.,

(Signed,)

J. DOUTRE.

To His Excellency
the Governor General of Canada, Quebec.

(Inclosure 2 in No. 4.)

Mr. Godley to Mr. Doutre.

QUEBEC, October 25, 1866.

SIR,—I am directed by the Governor General to acknowledge the receipt of your letter of yesterday's date, and in reply I am to inform you that His Excellency is quite prepared to forward to the Secretary of State for the Colonies any statement which you may desire to place before him.

The documents in the case of Lamirande, which are records of the court, can be obtained by you without any intervention, but the Governor General must decline to give copies of any opinion given to His Excellency, or reports made by the Law Officers of the Crown.

I have, &c.,

(Signed,)

DENIS GODLEY.

J. Doutre, Esq., Q. C., Montreal.

(No. 5.)

Copy of a Despatch from Viscount Monck to the Right Honorable the Earl of Carnarvon.
(No. 175—Received, November 7, 1866.)

QUEBEC, October 25, 1866.

MY LORD,—I have the honour to transmit herewith, at the request of Mr. Doutre, a letter which he has addressed to Your Lordship, mentioning the documents which he believes are necessary to be laid before you, in order to enable you to form a correct opinion on the whole of Lamirande's case. All the papers marked in Mr. Doutre's letter with an asterisk, have already been sent to Your Lordship in triplicate, and I now enclose, also in triplicate, copies of the other documents to which Mr. Doutre refers. The affidavits alluded to in the French Consul General's application for Lamirande's extradition, which application is termed by Mr. Doutre a Requisition from the French Government, and marked 1 in his letter, will be sent to Your Lordship by the next mail.

I have, &c.,

(Signed,)

MONCK.

The Right Honorable the Earl of Carnarvon,
&c., &c., &c.

(Inclosure in No. 5.)

Mr. Doutre to the Earl of Carnarvon.

MONTREAL, October 22, 1866.

MY LORD,—Having heard that our Colonial authorities had been requested to transmit to the Colonial Office in England copies of papers connected with the Lamirande's extradition case, I beg leave to inform Your Lordship that the record of the case to be complete, should include the following documents:—

1. Requisition from the French Government to His Excellency the Governor General, for the extradition of Lamirande.
2. Warrant of His Excellency, dated 26th July, 1866.

3. Warrant of Police Magistrate, William H. Bréhaut, Esq., in obedience to the Governor General's warrant.

4. Petition of Felix Gastier, arrested under the name of Ernest Sureau Lamirande, to His Excellency the Governor General, dated 3rd August, 1866.

5. Letter of Denis Godley, Esq., under date 4th August, 1866, acknowledging the receipt of Petition No. 4 above.

6. *Complaint of E. J. Melin, before Police Magistrate.

7. *Deposition and cross-examination of the same Melin before the same.

8. *Deposition and cross-examination of Abel F. Gautier before the same.

9. *Deposition and cross-examination of Frédéric Coudert, before the same.

10. *Deposition and cross-examination of Louis Léonce Coudert, before the same.

11. *Deposition of Dubois de Jancigny, made in France.

12. *Translation of a pretended *arrêt de renvoi* issued out.

13. **Procès verbal de saisie de pièce à conviction*, made in France.

14. *Petition of E. S. Lamirande to His Excellency the Governor General, dated 15th August, 1866.

15. *Letter of H. Cotton, Esq., from the Governor General's Secretary's Office, acknowledging the receipt of Petition No. 14 above.

16. Deposition and cross-examination of C. L. Spilthorn, before the said Police Magistrate.

17. Deposition and cross-examination of E. B. Morel, before the same.

18. Voluntary examination of the prisoner.

19. *Demande d'élargissement* "of release" by prisoner, 15th August, 1866.

20. Commitment of E. S. Lamirande for extradition, by Police Magistrate, dated 22nd August, 1866.

21. Petition of E. S. Lamirande, for *habeas corpus*, dated 23rd August, 1866, with notice to T. K. Ramsay, Esq., of presentation, on the 24th August, 1866.

22. Writ of *habeas corpus*, and return of the gaoler, dated 25th August, 1866.

23. Warrant of Extradition of His Excellency the Governor General, dated 23rd August, 1866.

24. Affidavit of J. Doutre, before Judge Drummond, 24th August, 1866.

25. Order left at the Montreal Gaol by the Honorable L. T. Drummond, one of the Judges of the Court of Queen's Bench, the 24th August, 1866.

26. Warrant of surrender by Deputy Sheriff Sanborn, to the gaoler, founded on His Excellency's warrant of 23rd August, 1866, dated 24th August, 1866.

27. Judgment of the Honorable L. T. Drummond, Judge of the Court of Queen's Bench, on the above Petition for *habeas corpus*.

28. Telegram from J. Doutre to His Excellency, from Montreal to Quebec, dated 30th August, 1866.

29. Second telegram from the same to the same, 30th August, 1866.

30. Third telegram from the same to the same, 30th August, 1866.

31. Telegram from Denis Godley, Esq., to J. Doutre, from Quebec to Montreal, 30th August, 1866.

32. Joint Report of Messrs. J. Doutre and C. L. Spilthorn, of their interviews with His Excellency on the 29th August, 1866, said Report dated 30th August, 1866, and sent in duplicate to His Excellency on the 8th September, 1866, with a letter of the last date from J. Doutre to D. Godley, Esq.

33. Letter from D. Godley, Esq., acknowledging receipt of said report and letter, No. 32 above.

34. Second report of Messrs. J. Doutre and C. L. Spilthorn, of their interviews with His Excellency, dated 11th September, 1866, sent in duplicate to His Excellency, with letter from J. Doutre to D. Godley, dated 11th September, 1866.

35. Letter from D. Godley to J. Doutre, acknowledging receipt of report and letter, No. 34 above.

36. Letter from J. Doutre to D. Godley, of the 13th September, 1866.

37. Charge of L. T. Drummond, Judge of the Court of Queen's Bench, at the opening of the September term of the Court of Queen's Bench (Crown side), to the Grand Jury.

38. Presentment of the Grand Jury to the same Court, on the 10th October, 1866, with papers accompanying said presentment.

39. Motion of E. S. Lamirande by J. Doutre, his Counsel, to obtain copies of papers accompanying said presentment, with affidavit of J. Doutre, in support of that motion.

I do not mention in the above list the petition of G. S. Cherrier, Esq., and others, to Her Majesty, and the papers accompanying it, as I suppose they have reached Your Lordship in due time.

I have, &c.,

(Signed,)

JOSEPH DOUTRE.

Lord Carnarvon,

Secretary of State for the Colonies, London:

N.B.—Such documents referred to in the above Schedule, as are wanting, will be found amongst the papers supplied by Mr. Brehaut, the Police Magistrate, as above.

No. 3.—Warrant of Police Magistrate.

PROVINCE OF CANADA,

POLICE OFFICE.

District of Montreal,

City of Montreal.

To all or any of the Constables or other Peace Officers in the District of Montreal.

WHEREAS, Ernest Sureau Lamirande, late of Poitiers, in the French Empire, now present in the City of Montreal, hath this day been charged upon oath before the undersigned, William H. Brehaut, Esq., Police Magistrate in and for the District of Montreal, with the crime of forgery, by having, in his capacity of Cashier of the Branch of the Bank of France, at Poitiers, made false entries in the books of the said bank, and thereby defrauded the said bank of the sum of 700,000 francs; and whereas a requisition has been made to His Excellency the Governor General of this Province, by the Consul General of France in the Provinces of British North America, pursuant to the terms of the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the French, signed at London, on the 13th day of February, in the year of Our Lord 1843, and the Acts of the Parliament of the United Kingdom of Great Britain and Ireland, passed to give effect to the said Convention, to issue his warrant for the apprehension of the said Ernest Sureau Lamirande, accused of having committed the crime aforesaid after the ratification of the said Convention; and whereas, in compliance with the said requisition, His Excellency the Governor General has, by warrant under his hand and seal, bearing date at Ottawa, in the said Province, the 26th day of July, in the year of Our Lord, 1866, required each and every the Justices of the Peace, and other Magistrates and Officers of Justice within their several Jurisdictions in the said Province of Canada, to aid in apprehending and committing him, the said Ernest Sureau Lamirande, to any one of the gaols within the said Province of Canada, for the purpose of being delivered up to Justice, according to the provisions of the said Convention and the Acts to give effect thereto.

These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said Ernest Sureau Lamirande, and to bring him before me, or some other of Her Majesty's Justices of the Peace in and for the said district, to answer unto the said charge, and to be dealt with according to law.

Given under my hand and seal at the said Police Office, in Montreal, in the said district, this 6th day of August, in the year of Our Lord, 1866.

(Signed,)

W. H. BREHAUT,

Police Magistrate.

I, the undersigned Nazaire Caron, Constable, duly appointed in and for the district of Montreal, do hereby return, under my oath of office, that on the 7th day of August, 1866, in obedience to the within warrant to me delivered, I did, at the City of Montreal, in the District of Montreal, apprehend the within named Ernest Sureau Lamirande, and brought him before William Henry Brehaut, Esq., Police Magistrate in and for the District of Montreal, from whence he was committed to gaol for further examination.

(Signed,)

N. CARON,

Constable.

Montreal, August 7, 1866.

No. 5—Mr. Godley to Mr. Doutre.

OTTAWA, August 4, 1866.

SIR,—I am directed by the Governor General to acknowledge the receipt of the petition, dated the 3rd of August, of Félix Gastier, arrested under the name of Lamirande, and now detained in the the gaol of the District of Montreal.

I have, &c.,

(Signed,

DENIS GODLEY,

Governor's Secretary.

Joseph Doutre, Esq.,

&c., &c., &c., Montreal.

(Nos. 6 to 13, inclusive, will be found printed as inclosures to Lord Monck's Despatch No. 164 of the 18th of October.)

No. 15.—Mr. H. Cotton, to Messrs. Doutre and Daoust.

GOVERNOR GENERAL'S SECRETARY'S OFFICE,

Ottawa, August 17, 1866.

SIR,—I am directed by His Excellency the Governor General to acknowledge the receipt of the Petition of Ernest Sureau Lamirande, 15th August, and to inform you that it has been transferred to the Attorney General for Lower Canada.

(Signed,)

H. COTTON.

For the Governor's Secretary.

Messrs. Doutre and Daoust,

Montreal.

(Nos. 16 to 19, inclusive will be found printed as inclosures to Lord Monck's Despatch No. 164, of the 18th October, 1866.)

(Translation.)

No. 21.—Petition of E. S. Lamirande, for Habeas Corpus.

PROVINCE OF CANADA, } To the Honorable the Justices of the Court of Queen's Bench
District of Montreal. } sitting in the District of Montreal.

The petition of Ernest Sureau Lamirande, now a prisoner in the Common Gaol of the District of Montreal, respectfully sheweth:

That your petitioner is now a prisoner in the Common Gaol of this District, under and by virtue of the order of William H. Brehaut, Esquire, Police Magistrate, a copy of which order is hereto attached, and by which it appears that your petitioner is detained upon the application which has been made for his extradition, upon the pretext of your petitioner's having committed in France the crime of forgery.

That the detention of your petitioner is illegal and arbitrary for the following reasons among others:—

1. Because the treaty entered into on the 13th February, 1843, between the Governments of France and England, and put in force by the Imperial Act, 6 and 7 Victoria, chapter 75, ceased to exist on the 4th June last, in consequence of the signification to the English Government by the French Government, of its desire to put an end to the same, more than six months before the said day (4th June last) as provided in the said treaty.

2. Because it is proved that the extradition of the petitioner has not been demanded by any diplomatic agent of the French Government.

3. Because the magistrate who ordered the apprehension and committal of your petitioner did not receive any proof that those who were proceeding for the extradition of the petitioner are holders of a warrant of arrest, or other equivalent judicial document, issued by a judge or competent authority in France.

4. Because, granting that those who are proceeding for the extradition of the prisoner petitioning are holders of such a warrant of arrest or equivalent document, such warrant or document is not authenticated in manner to justify the arrest of the petitioner if he were in France.

5. Because, granting that such warrant or order of arrest had been proved to be in the possession of those who are proceeding for the extradition of the prisoner, and that it was authenticated in manner to justify the arrest of the petitioner in France, the committal of the prisoner with a view to his extradition cannot be legally ordered, unless there be adduced before the Magistrate or Justice of the Peace ordering such committal, sufficient proof to justify the apprehension and committal or imprisonment of the petitioner, to undergo his trial, if the crime of which he is accused had been committed in Canada ; and because no such proof has been adduced.

6. Because in the absence of the evidence of witnesses having personal knowledge of the facts, the said law (6 and 7 Victoria, chap. 75) authorises the receiving in evidence of depositions or copies of depositions taken in France, if they are proved to be true copies by the person producing them, and because there was produced no witness having personal knowledge of the facts of which the petitioner is accused, nor any deposition certified by the judge who issued such warrant, if such warrant exists, which the petitioner denies, nor certified, nor proved to be a true copy by the person producing such deposition.

7. Because, granting that the extradition of your petitioner had been demanded by a diplomatic agent, and that all formalities of law had been complied with, which your petitioner denies, the facts charged against your petitioner would not constitute and cannot constitute the offence or crime of forgery, and because those facts were only designated as forgery in order to obtain, under fictitious prettexts, the extradition of the petitioner, the law of France, of England, and of Canada in no way defining such facts as constituting forgery.

Wherefore your petitioner prays that it may please your Honors, or some one of your Honors, to order that under the authority of your Honors, or some one of your Honors, a writ of *habeas corpus* may be issued, instructing the gaoler of the common gaol of this district to produce before you the body of your petitioner, to the end that he may be released and set at liberty.

And in so doing you will do justice.

(Signed,)

JOSEPH DOUTRE,

Advocate for the petitioner.

Montreal, 23rd August, 1866.

To T. K. Ramsay, Esq., representing the Attorney General.

SIR,—You are notified that the foregoing petition will be presented in Chambers to such Judges of the Court of Queen's Bench as may be then and there present, on the 24th day of August instant, at one o'clock in the afternoon, at the Court House at Montreal.

(Signed,)

JOSEPH DOUTRE,

Advocate for the petitioner.

Montreal, 23rd August, 1866.

Let Her Majesty's Most Gracious Writ of *habeas corpus* issue, returnable immediately at the Judge's Chambers before me.

(Signed,)

LEWIS T. DRUMMOND,

J. Q. B.

Judge's Chambers,

Montreal, August 25, 1866.

I, the undersigned, one of the sworn Bailiffs of Her Majesty's Court of Queen's Bench for Lower Canada, appointed and acting in and for the District of Montreal, do hereby, under my oath of office, certify and return that I did, on the 23rd day of August, 1866, between the hours of 11 and 12 of the clock in the forenoon, serve the within original *requête and avis* on T. K. Ramsay, Esquire, représentant le Procureur Général, by speaking to and leaving true and certified copies thereof with Alfred De Beaumont, Esquire, Deputy Clerk of the Crown, at the Office of the Clerk of the Crown, in the Court House of the City of Montreal, where the said T. K. Ramsay, Esquire, keeps his office for the purpose of the object of the said *requête*.

Montreal, 23rd August, 1866.

(Signed,)

JOHN HOOLAHAN,

Bailiff, Queen's Bench.

No. 22.—*Writ of Habeas Corpus.*

PROVINCE OF CANADA, } Victoria, by the Grace of God, of the United Kingdom of
District of Montreal. } Great Britain and Ireland, Queen, Defender of the Faith.

(Seal of Court of Queen's Bench,
Lower Canada.) To the Keeper of our Common Gaol, for the District of
Montreal, or to his Deputy or Deputies, and to each of
them.

GREETING :

By virtue of chapter 95, of the
Consolidated Statutes for Lower
Canada, and *per statutum tricesimo
primo Caroli Secundi Regis.*

(Signed,)

LEWIS T. DRUMMOND,

J. Q. B.,

(Law Stamp.)

We command you that you have, before the Honorable
Lewis Thomas Drummond, one of the Justices of our Court
of Queen's Bench for Lower Canada, at his Chambers in
the Court House, in our City of Montreal, immediately
after the receipt of this writ, the body of Ernest Sureau
Lamirande, being committed and detained in our prison,
under your custody (as it is said), together with the day
and cause of the taking and detaining of the said Ernest
Sureau Lamirande, by whatever name the said Ernest Sureau Lamirande be called in the
same, to undergo and receive all and singular, such things as our said Justice shall then
and there consider of him in that behalf, and that you have then and there this writ.

In witness whereof we have caused the seal of our Court of Queen's Bench for Lower
Canada, to be hereunto affixed at our City of Montreal, this 25th day of August, in the
thirtieth year of our Reign.

(Signed,)

C. E. SCHILLER,

D. E., Clerk of the Crown.

The Return to the within writ appears by the Schedule hereunto annexed.

Montreal Gaol, this 25th day of August, 1866.

(Signed,)

LOUIS PAYETTE,

Gaoler.

PROVINCE OF CANADA, } Honorable Lewis T. Drummond, one of Her Majesty's Judges
District of Montreal. } of the Court of Queen's Bench.

In answer to the Writ of Her Majesty the Queen, of this 25th day of August, com-
manding me to bring before your honor the body of Ernest Sureau Lamirande ;

I beg to state that the above named prisoner was by me delivered over to Edme
Justin Melin, *Inspecteur Principal de Police* of Paris, last night, at twelve o'clock, by
virtue of an order signed by M. H. Sanborn, Deputy Sheriff, grounded on an instrument
by His Excellency the Governor General, which order is in the words following, viz :—

" To Louis Payette, Gaoler of the Common Gaol of the District of Montreal,

GREETING :—

" By virtue of an instrument granted by His Excellency the Governor General, do
deliver Ernest Sureau Lamirande, now confined in the said Common Gaol, to such person
or persons as may be authorized in the name and on the behalf of the French Empire, to
receive the same, and addressed to the Sheriff of the said District of Montreal, under date
of the 23rd of August instant, You are hereby commanded and required to deliver the
said Ernest Sureau Lamirande to Edme Justin Melin, *Inspecteur Principal de Police* of
Paris, as being so authorized to receive the same, taking his receipt.

" Provided always, that the said Ernest Sureau Lamirande be detained for no other
cause, matter or thing than the crime of forgery committed by him at Poitiers, in the said
French Empire, as specified in the said instrument.

" Hereof fail not at your peril.

" Given at Montreal, this 24th day of August, in the year of Our Lord, 1866.

(Signed,)

T. BOUTHILLIER,

Sheriff.

"

M. H. SANBORN,

Deputy Sheriff.

(Signed,)

LOUIS PAYETTE,

Gaoler.

(Translation.)

No. 24.—*Affidavit of Mr. Doutre.*

In the matter of Ernest Sureau Lamirande, committed for extradition.

PROVINCE OF CANADA,) Joseph Doutre, Esquire, Advocate and Queen's Counsel, being
District of Montreal. } sworn, depose and saith : That in the course of the present evening, about half-past eight o'clock, two persons came to the deponent and informed him that facts, which they considered as certain, and consisting of preparations for the departure of Justin Edme E. Melin, officer of the police of Paris, and of declarations on the part of the latter, had convinced them that the said Ernest Sureau Lamirande was to be taken this same evening, by the said J. E. Melin, by the Grand Trunk Railway to Quebec, and thence on board the steamer to sail to-morrow for Europe ; that the release of the said prisoner has already been applied for to the Honorable Justices of the Court of Queen's Bench on various grounds, setting forth the illegality of the committal of the said prisoner, and that such application is pending before the Honorable L. T. Drummond, one of the said Honorable Justices ; that if the said prisoner is removed at this time from the custody of the gaoler of the Montreal gaol, the deponent is convinced that it is being done by means of an illegal proceeding, and with the view of preventing justice being done the said prisoner. Wherefore the deponent requests the intervention of the judicial authorities to prevent the removal of the said prisoner out of the jurisdiction of the justices having cognizance of the affair ; and hath signed, after reading.

(Signed,)

JOSEPH DOUTRE.

Sworn before me at Montreal, this 24th August, 1866.

(Signed,) LEWIS T. DRUMMOND J. Q. B.

No. 25.—*Order of Judge Drummond.*

To the Gaoler of the City of Montreal :

I hereby require and order you to give no obedience to any warrant or order which may be given to you by any Justice of the Peace, or any other authority, to deliver up or release from custody the prisoner Ernest Sureau Lamirande, until I shall have given my decision upon the demand for a writ of *habeas corpus* now pending before me in relation to the above named prisoner.

Montreal, August 24th, 1866.

(Signed,)

LEWIS T. DRUMMOND,
J. Q. B.No. 26.—*Warrant of Surrender by the Deputy Sheriff.*

To Louis Payette, Gaoler of the Common Gaol of the District of Montreal,

GREETING :—

By virtue of an instrument granted by His Excellency the Governor General to deliver Ernest Sureau Lamirande, now confined in the said common gaol, to such person or persons as may be authorized in the name and on the behalf of the French Empire to receive the same, and addressed to the Sheriff of the said District of Montreal, under date of the 23rd day of August, instant.

You are hereby commanded and required to deliver the said Ernest Sureau Lamirande to Edme Justin Melin, Inspecteur Principal de Police of Paris, as being so authorized to receive the same, taking his receipt, provided always that the said Ernest Sureau Lamirande be detained for no other cause, matter, or thing, than the crime of forgery committed by him at Poitiers, in the said French Empire, as specified in the said instrument ; hereof fail not at your peril.

Given at Montreal, this 24th day of August, in the year of our Lord 1866.

(Signed,)

T. BOUTHILLIER,
Sheriff.

“

M. H. SANBORN,
Deputy Sheriff.

No. 27.—*Judgment of Judge Drummond.*

PROVINCE OF CANADA, } In Chambers,—Friday, August 24, 1866; before the
District of Montreal. } Honorable Mr. Justice Drummond.

In the matter of Ernest Sureau Lamirande, for a writ of *habeas corpus*.—

Mr. Doutre, on behalf of Ernest Sureau Lamirande presents a petition for Her Majesty's most gracious writ of *habeas corpus*, and is heard.

Mr. Ramsay on behalf of the Crown is heard.

This case is adjourned until the hour of eleven in the forenoon, to-morrow.

SATURDAY, September 25, 1866.

Before the Hon. Mr. Justice Drummond, in the matter of Ernest Sureau Lamirande.

On motion of Mr. Doutre, writ of *habeas corpus* issued, returnable in Chambers immediately.

At 3 o'clock P.M., Mr. Payette, the Gaoler, makes his return, which is received and filed.

Mr. Schiller, Deputy Clerk of the Crown, reads the writ of *habeas corpus* and return, likewise an order given to the keeper of the Common Gaol by the Honorable Mr. Justice Drummond, before the warrant of the Sheriff founded upon the last warrant of extradition had been served upon him, and before any knowledge thereof had been given to the Judge.

This case stands until Monday at the hour of eleven in the forenoon.

MONDAY, August 27, 1866.

Before the Hon. Mr. Justice Drummond, in the matter of Ernest Sureau Lamirande.

This case stands adjourned until the hour of eleven in the forenoon to-morrow.

TUESDAY, August 28, 1866.

Before the Hon. Mr. Justice Drummond, in the matter of Ernest Sureau Lamirande.

The Honorable Mr. Justice Drummond pronounced the following Judgment:—

On the 26th July last, a document under the signature of His Excellency the Governor General, purporting to be a warrant for the extradition of the petitioner, issued under the authority vested in His Excellency by the provisions of the Statute passed by the Legislature of the United Kingdom of Great Britain and Ireland, in the sixth and seventh years of Her Majesty's reign, intituled, "An Act to give effect to a Convention between Her Majesty and the King of the French, for the apprehension of certain offenders," setting forth that the said petitioner stood accused of the crime of "forgery, by having, in his capacity of Cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the said bank, and thereby defrauded the said bank of 700,000 francs;" that a requisition had been made to His Excellency by the Consul General of France in the Provinces of British North America, to issue his warrant for the apprehension of the said petitioner, and requiring all Justices of the Peace and other Magistrates and Officers of Justice within their several jurisdictions, to aid in apprehending the petitioner, and committing him to Gaol.

Under this document the prisoner was arrested, and after examination before William H. Bréhaut, Esq., Police Magistrate and Justice of the Peace, was fully committed to the Common Gaol of the District on the 22nd day of the current month of August.

On the following day, between the hours of 11 and 12 o'clock in the forenoon, notice was given in due form by the prisoner's Counsel to the Counsel charged with the criminal prosecutions in this district, that he (the said Counsel for the prisoner) would present a petition to any one of the Judges of the Court of Queen's Bench who might be present in Chambers at 1 o'clock in the afternoon of the following day (the 24th), praying for a writ of *habeas corpus* and the discharge of the prisoner.

At the time appointed this petition was submitted to me.

Mr. J. Doutre appeared for the petitioner, Mr. T. K. Ramsay for the Crown, and Mr. Pominville for the private prosecutor.

A preliminary objection, raised on the ground of insufficient notice, was overruled.

Mr. Doutre then set forth his client's case in a manner so lucid, that I soon convinced

myself, after perusing the statute cited in warrant of extradition that the warrant itself, the pretended warrant of arrest alleged to have been issued in France, *arrêt de renvoi*, and all the proceedings taken with a view to obtain the extradition of the petitioner, were unauthorized by the above cited statute, illegal, null and void, and that the petitioner was therefore entitled to his discharge from imprisonment. But as Mr. Pominville, whom I supposed to be acting as Counsel for the Bank of France, wished to be heard, I adjourned the discussion of the case until the following morning. I would have issued the writ before adjourning had the Counsel for the prisoner insisted upon it. But that gentleman was, no doubt, lulled into a sense of false security by the indignation displayed by the Counsel for the Crown, when Mr. Doure signified to me his apprehension that a *coup de main* was in contemplation to carry off the petitioner before his case had been decided.

On the following morning (Saturday, the 25th of this month), I ordered the issuing of a writ of *habeas corpus* to bring the petitioner before me, with a view to his immediate discharge.

My decision to discharge him was founded upon the reasons following :—

1st. Because it is provided by the first section of the Act of the British Parliament, to give effect to a Convention between Her Majesty and the King of the French, for the apprehension of certain offenders (6 and 7 Vic., cap. 75), that every requisition to deliver up to justice any fugitive accused of any of the crimes enumerated in the said Act, shall be made by an Ambassador of the Government of France, or by an accredited diplomatic agent; whereas the requisition made to deliver up the petitioner to justice has been made by Abel Frederic Gautier, Consul General of France in the Provinces of British North America, who is neither an Ambassador of the Government of France, nor an accredited diplomatic agent of that Government, according to his own avowal upon oath.

2nd. Because, by the third section of the said statute, it is provided that no Justice of the Peace or any other person, shall issue his warrant for any such supposed offender until it shall have been proved to him, upon oath or affidavit, that the person applying for such warrant is the bearer of a warrant of arrest or equivalent judicial document, issued by a Judge or competent Magistrate in France, authenticated in such manner as would justify the arrest of the supposed offender in France upon the same charge, or unless it shall appear to him that the act charged against the supposed offender is clearly set forth in such warrant of arrest or other judicial document; whereas, the Justice of the Peace who issued his warrant against the petitioner, issued the same without having any such proof before him, the only document produced before him, as well as before me, in lieu of such warrant of arrest or equivalent judicial document, being a paper-writing alleged to be a translation into English of a French document made by some unknown and unauthorized person in the office of Consul for the prosecutor at New York, and bearing no authenticity whatever.

3rd. Because, supposing the said document purporting to be a translation of an *acte d'accusation* or indictment, accompanied by a pretended warrant for arrest, and designated as an *arrêt de renvoi*, to be authentic, it does not contain the designation of any crime comprised in the number of the various crimes for or by reason of the alleged commission of which any fugitive can be extradited under the said statute.

4th. Because, by the first section of the said Act, it is provided that no Justice of the Peace shall commit any person accused of any of the crimes mentioned in the said Act, to wit, murder, attempt to commit murder, forgery, and fraudulent bankruptcy, unless upon such evidence, as according to the laws of that part of Her Majesty's dominions in which the supposed offender shall be found, would justify the apprehension and committal for trial of the person so accused, if the crime of which he shall be accused had been there committed. Whereas, the evidence produced against the petitioner upon the accusation of forgery brought against him before the committing magistrate would not have justified him in apprehending or committing the petitioner for the crime of forgery, had the acts charged against him been committed in that part of Her Majesty's dominions where the petitioner was found, to wit, in Lower Canada.

5th. Because the said warrant for the extradition of the petitioner, as well as the warrant for his apprehension, does not charge him with the commission of any one of the crimes for which a warrant of extradition can be issued under the Statute, inasmuch as in both of the said warrants the alleged offence is charged against the petitioner as "forgery

by having, in the capacity of cashier of the Branch of the Bank of France at Poitiers, made false entries in the books of the bank, and thereby defrauded the said bank of the sum of 700,000 francs."

Whereas the said offence as thus designated does not constitute the crime of forgery according to the laws of England and Lower Canada, for, to use the words of Judge Blackburn, when he pronounced judgment concurrently with Chief Justice Cockburn and Judge Shee, in a case analogous to this (*ex parte* Charles Windsor, Court of Queen's Bench, May 1865.)—"Forgery is the false making of an instrument purporting to be that which is not, it is not the making of an instrument purporting to be that which it is; it is not the making of an instrument which purports to be what it really is, but which contains false statements. Telling a lie does not become a forgery because it is reduced to writing."

The gaoler's return to this writ of *habeas corpus* was, that he had delivered over the prisoner to Edme Justin Melin, Inspecteur Principal de Police de Paris, on the night of the 24th instant, at 12 o'clock, by virtue of an order signed by M. H. Sanborn, Deputy Sheriff, grounded upon an instrument signed by his Excellency the Governor General.

It appears that the petitioner thus delivered up to this French Policeman is now on his way to France, although his extradition was illegally demanded, although he was accused of no crime under which he could have been legally extradited, and although as I am credibly informed, his Excellency the Governor General had promised, as he was bound in honor and justice, to grant the petitioner an opportunity of having his case decided by the first tribunal of the land before ordering his extradition.

It is evident that His Excellency has been taken by surprise, for the document signed by him is a false record, purporting to having been signed on the 23rd instant at Ottawa, while His Excellency was at Quebec, and falsely certified to have been recorded at Ottawa before it had been signed by the Governor General.

In so far as the petitioner is concerned I have no further order to make, for he whom I was called upon to bring before me is now probably on the high seas, swept away by one of the most audacious and hitherto successful attempts to frustrate the ends of justice which has yet been heard of in Canada.

The only action I can take, in so far as he is concerned, is to order a copy of this Judgment to be transmitted by the Clerk of the Crown to the Governor General for the adoption of such measures as His Excellency may be advised to take to maintain that respect which is due to the Courts of Canada, and to the laws of England.

As to the public officers who have been connected with this matter, if any proceedings are to be adopted against them they will be informed thereof on Monday, the 24th day of September, next, in the Court of Queen's Bench, holding criminal jurisdiction, to which day I adjourn this case for further consideration.

No. 28.—Telegram from Mr. Doutre to His Excellency the Governor General.

MONTREAL, August 30, 1866.

Mr. Doutre has the honor to submit the name of the Solicitor he intends intrusting with the case of Lamirande in London:—Mackenzie, Treherne & Trinden, 77, Gresham House, Old Broad Street.

(Signed,)

JOSEPH DOUTRE.

No. 29.—Telegram from Mr. Doutre to His Excellency the Governor General.

MONTREAL, August 30, 1866.

Mr. Doutre has the honor to ask Your Excellency if it would please Your Excellency to cause the following telegram to be sent at public expense through the Atlantic Cable, and favour Mr. Doutre with an answer.

"Mackenzie, Treherne & Trinden, Solicitors, London.

"MONTREAL, August 30, 1866.

"Ernest Sureau Lamirande, kept by E. Justin Melin and Joseph Sipling, on steamship *Damascus*, Somers Watts, Master, due Londonderry, 3rd September. Stop him by *habeas corpus*; have his rendition suspended as illegal; papers mailed; I, perhaps, going."

(Signed,)

JOSEPH DOUTRE."

No. 30.—*Telegram from Mr. Doutre to His Excellency the Governor General.*

"MONTREAL, August 30, 1866.

"Mr. Doutre has the honor to ask Your Excellency to have the following words added at the end of his telegram to Mackenzie & Co., in case it should be transmitted as asked by previous telegram:

"See Lord Carnarvon.

"(Signed),

JOSEPH DOUTRE."

No. 31.—*Telegram from Mr. Godley to Mr. Doutre.*

QUEBEC, August 30, 1866.

SIR,—Lord Monck cannot send Message at public expense. He has already notified the Colonial Secretary by telegraph.

(Signed),

DENIS GODLEY.

(No. 32.—*Mr. Doutre to Mr. Godley.*)

MONTREAL, September 8, 1866.

SIR,—Enclosed you will find the joint report of Messrs. Doutre and Spilthorn, of their interviews with His Excellency on the 23rd August last, at Quebec. You will oblige by submitting it to His Excellency for remarks, if necessary. I intend sending a duplicate of that report to England, and to publish it in Canada, as some newspapers persist in qualifying as a fabrication the report made by Mr. Spilthorn of His Excellency's promise in Ottawa of allowing to Lamirande the time necessary for applying to higher tribunals. Considering that Lamirande might suffer from the doubts expressed by some newspapers about that promise, you will please submit to His Excellency that I cannot, for the sake of minor considerations, let my client suffer from my silence.

I intend sending that report to England on Wednesday next. If I do not receive any observations upon it before then, I will consider that there are none to expect.

If there was no objection to communicate to me the telegram of His Excellency to the Colonial Secretary, in relation to Lamirande, I would be exceedingly obliged for it.

I have, &c.,

(Signed),

JOSEPH DOUTRE.

Denis Godley, Esq.,
&c., &c., &c., Quebec.

Joint Report from Messrs. J. Doutre, Q.C., and C. L. Spilthorn, Attorney and Counsellor-at-Law, of their Interviews with His Excellency the Governor General of Canada on the 29th of August, 1866, in Quebec.

MONTREAL, August 30, 1866.

The 29th of August, 1866, being a very stormy day, and there being no probability that His Excellency would come to his office in town, where Messrs. Doutre and Spilthorn had enquired for him in the morning, Messrs. Doutre and Spilthorn started for Spencer Wood, where they were received by His Excellency about 12 o'clock.

On meeting them, His Excellency said that he understood the object of their visit, that no man had felt more aggrieved than himself at the wrong he had been instrumental in inflicting upon Lamirande.

Mr. Doutre then observed, that if the warrant of His Excellency surrendering Lamirande to France, had been the result of deliberation on the part of His Excellency, there would have been an immediate end to the interview, as their object in coming from Montreal was neither to blame His Excellency nor to discuss his action in the matter. But in such case he, Mr. Doutre, would be in the painful necessity of doubting the word of Mr. Spilthorn, when he reported that His Excellency had given him the verbal promise of allowing to Lamirande the time required for submitting his case on *habeas corpus* to higher tribunals.

His Excellency there interrupted, to say that Mr. Spilthorn had correctly reported the result of their interview in Ottawa, and that His Excellency had really promised to act as required in the petition of Lamirande.

"Then," continued Mr. Doutre, "I will feel at liberty to state the series of facts which have induced me and my companion to disturb Your Excellency in his private residence. We have come from Montreal to see if there would be any means of redressing the effects of the execution of Your Excellency's warrant, which had brought a deplorable conflict between the executive and judicial powers of the State.

"I saw that too late, unfortunately," said His Excellency, "to prevent that conflict, but it was far from being premeditated on my part. I will tell you, frankly, how the thing happened. Although the matter rested almost entirely with me, you understand that I would not undertake to decide upon a matter of law without acting under the advice of my constitutional legal advisers. On the 23rd day of this month, Mr. Solicitor General Langevin brought me that warrant to have it signed.

I told Mr. Langevin that I had promised the Attorney of the prisoner ample time to submit his case under a writ of *habeas corpus*, that if the warrant tendered for my signature should have the effect of interfering in the least with the application for *habeas corpus*, I would certainly not sign it. Mr. Langevin told me that the warrant would not interfere with or prejudice the proceedings adopted or to be adopted by the prisoner; that the warrant was only intended to be used when the application for *habeas corpus* would be disposed of, and in case it would not be granted. I have not seen Mr. Langevin since, but I must hear what he has to say. He is responsible to me for his advice, and he must explain how he has brought me into this painful and false position. If it would not inconvenience you, meet me at my office at 2 o'clock. I will be pleased to see you. In the meantime, if you can suggest any practical means of redressing the wrong I have been instrumental in inflicting upon the man, I will be very much obliged to you."

When Mr. Doutre related how it had been ascertained that the Attorney General's partners in business had been connected with the execution of the plan which had resulted in the taking away of Lamirande, pending the demand of release under *habeas corpus*, the participation of the Deputy Clerk of the Crown and of the Crown Prosecutor in the execution of the plan, every one of them knowing the existence of the proceedings for *habeas corpus*, the preparation of a draft of His Excellency's warrant by the Crown Prosecutor, and the copying of it on parchment by the Deputy Clerk of the Crown, even before the decision of the Police Magistrate had been rendered, the receiving of the fees from the prisoner on the petition for a writ of *habeas corpus* by the same Deputy Clerk of the Crown, the presence of the same Deputy Clerk of the Crown, and of the Crown Prosecutor at the presentation of the petition on the 24th August; the participation of both of them in the proceedings for *habeas corpus*, and after all this the visit of the same Deputy Clerk of the Crown at the residence of the Deputy Sheriff during the night of the 24th and 25th of August, with the Attorney General's partner, the High Constable, and French Detective Melin, to obtain an order grounded on His Excellency's warrant; the whole showing that all and every one of them had conspired together to bring His Excellency in disrepute, by treacherously causing His Excellency to commit a breach of his royal promise, and to set at defiance the authority of the Court of which they, the Deputy Clerk of the Crown, the Crown Prosecutor, and the High Constable were servants in their respective sphere of action. Mr. Doutre observed, moreover, that knowing the antecedents of three of the parties concerned in this disgraceful transaction, knowing that the Police Magistrate and the Deputy Clerk of the Crown had already been dismissed from office for malversation in and breach of public trust, and that the Crown Prosecutor had also been dismissed from office for disobedience and insolence to his superior officers, knowing that the same parties had been re-instated in office without having in any way removed the causes of their respective dismissal, and exclusively through the influence of the Attorney General; he knew from the first, that each and all of them would be subservient tools in the hands of the Attorney General's partners, and from the beginning he anticipated that nothing short of the fair dealings of His Excellency could protect his client from all kinds of attempt to evade law and justice on the part of the Attorney General's partners, aided and abetted by those officials. The result has proved that this anticipations did not yet reach the full height of the conspirators' knavery, since the high and regal position of His Excellency did not stop them in their nefarious designs. This will not be the last His Excellency would hear from the doings of the same parties. A few weeks ago the same Crown Prosecutors had abused His Excellency's warrant in another case of extradition. A man

of the name of Merrit having been committed for extradition, the nullity of his commitment was raised under a writ of *habeas corpus*, while His Excellency's warrant was asked for upon this same commitment. When His Excellency's warrant arrived at Montreal the commitment was quashed, and the release of the prisoner ordered; but another commitment was secretly obtained, and upon this second commitment His Excellency's warrant, which must have been anterior in date, was used to extradite the prisoner.

"Having thus shown to Your Excellency," continued Mr. Doutre, "how justice is administered in Montreal, I will now state to Your Excellency the practical object of our visit. We intend telegraphing to London through the cable, to some Solicitors to take proceedings to suspend the rendition of Lamirande, if he is landed in England. But there our agents will have to fight against Your Excellency's warrant without any paper to show why that warrant should not be fully executed. Since Your Excellency has been deceived, we would humbly submit that Your Excellency should help us in preventing that violation of the law. As to the form under which Your Excellency might help us, we would leave Your Excellency to decide."

Then His Excellency told us that he would be willing to telegraph immediately to Lord Carnarvon, the Secretary for the Colonies, informing him of the illegality of Lamirande's extradition, and praying him to give to our solicitors all help in his power.

This closed the first interview. In the afternoon we met His Excellency at his office in town, when he told us that he was ready to telegraph, and that he was only waiting for the names of our solicitors in London. As we had not yet determined whom we would intrust with the case, it was agreed that we should send their names by telegraph from Montreal the next morning.

His Excellency then told us that he had seen Mr. Solicitor General Langevin, and that in justice to him he desired to communicate to us the explanation he had given of his conduct. "Mr. Solicitor General Langevin says," continued His Excellency, "that when I asked him if my warrant would interfere with the proceedings on *habeas corpus*," he understood me to ask him "if a writ of *habeas corpus* had been issued," and that he answered, "no."

"Mr. Langevin," remarked Mr. Doutre, "knew then what was going on, and what he was doing himself, and whether his explanation is true, or plausible, or not, it does not alter the case as to the *animus* of his advice to Your Excellency, but we have nothing to do with that."

As we were about leaving, Mr. Doutre observed, that as His Excellency then stood before the public, as having acted in violation of his promise to Mr. Spilthorn, he would feel bound to explain the matter in a public way, in justice to His Excellency.

"If you intend to do that, for my own sake," said His Excellency, "I would rather like that you should abstain from doing it." And His Excellency gave his motives for avoiding being mixed up in newspaper controversy.

Mr. Doutre replied, that His Excellency's desire would be complied with, as long as the interest of his client should not suffer from his silence, and we parted.

(Signed,) JOSEPH DOUTRE.
C. L. SPILTHORN.

No. 33.—Mr. Godley to Mr. Doutre.

QUEBEC, September 10, 1866.

SIR,—I beg to acknowledge the receipt of your letter of the 8th instant, enclosing a "Joint Report from Messrs. J. Doutre, Q. C., and C. L. Spilthorn, attorneys-at-law, of their interviews with His Excellency the Governor General of Canada, on the 29th of August, 1866, at Quebec."

I have laid this document before the Governor General, and I am directed by His Excellency to inform you, that though he cannot restrain you from publishing anything that you please, he entirely denies the accuracy of the report of the language which in your statement he is made to use, and also disavows the construction which is put upon his conversation, as affecting his relations with the officers of the Crown.

In reply to your request that the telegram of the Governor General to the Secretary of State for the Colonies should be communicated to you, I am to acquaint you that His Excellency, in his message to Lord Carnarvon, expressed his desire that his warrant for

Lamirande's extradition should not be any obstacle to the prisoner's obtaining a writ of *habeas corpus* in England, as His Excellency understood that an application for that purpose would be made in the English Courts.*

I have, &c.,

(Signed,)

DENIS GODLEY,
Governor's Secretary.

J. Doutre, Esq., Q.C.,
&c., &c., &c., Montreal, L. C.

No. 34.—*Mr. Doutre to Mr. Godley.*

MONTREAL, September 11, 1866.

SIR,—I have the honour to acknowledge the receipt of your letter of yesterday, in which you inform me that His Excellency the Governor General "entirely denies the accuracy of the report of the language which in our (Mr. Spilthorn and myself) statement he is made to use, and he also disavows the construction which is put upon his conversation as affecting his relations with the Officers of the Crown."

You will please express to His Excellency my regret that any portion of that report should be the object of either denial or disapprobation on the part of His Excellency, as we have taken great care to faithfully report the conversations we had the honour to have with His Excellency. Our object in laying down the details of those conversations, was to make a complete record of the facts relative to Lamirande's extradition. But as I never desired to serve any other object than the interest of my client in asking an interview with His Excellency, you will please state to His Excellency that I would very willingly forego any intention of making public from these conversations anything else but what is useful to Lamirande. The thing most useful to him was the acknowledgment on the part of His Excellency, that His Excellency had promised to Mr. Spilthorn at Ottawa that Lamirande would be allowed all the necessary time to submit his case for examination to higher tribunals, under a writ of *habeas corpus*. I hope there cannot be any difference between His Excellency on the one part, and Mr. Spilthorn and myself on the other, about that fact.

I beg therefore to submit to His Excellency the enclosed report of Mr. Spilthorn and myself, under date of this day, and I hope that by acknowledging the accuracy of the only fact stated in it, His Excellency will give to Mr. Spilthorn and myself the satisfaction of remaining with no other recollection but that of His Excellency's kindness towards us in our meetings at Quebec.

I have, &c.,

(Signed,)

JOSEPH DOUTRE.

Denis Godley, Esq.,
Secretary to His Excellency
the Governor General.

On the 29th of August, 1866, the undersigned, Joseph Doutre, Q.C., and C. L. Spilthorn, Attorney and Counsellor-at-Law, had the honor of meeting His Excellency the Governor General of Canada, &c., at Quebec, in relation to the extradition of Ernest S. Lamirande, claimed by France as a fugitive criminal.

In that interview His Excellency acknowledged that Mr. Spilthorn, one of the undersigned, having presented a petition from the said Lamirande to His Excellency, about the 17th of August, 1866, in Ottawa, praying His Excellency that in case he, (Lamirande) should be committed for extradition by the Police Magistrate then investigating the matter, he (Lamirande) should be allowed the necessary time to submit his case to higher tribunals for examination, under a writ of *habeas corpus*, His Excellency had then and there told Mr. Spilthorn that ample time would be allowed to Lamirande for the purpose of submitting his case as mentioned in the said petition.

(Signed,)

JOSEPH DOUTRE,
C. L. SPILTHORN.

Montreal, September 11, 1866.

* The telegram referred to will be found printed under No. 1—Despatches from the Governor General.

No. 35.—*Mr. Godley to Mr. Doutre.*

GOVERNOR'S SECRETARY'S OFFICE,
Quebec, September 12th, 1866.

SIR,—I have the honor to inform you that I have laid the paper which you inclosed to me in your letter of the 11th instant before the Governor General, and I am to acquaint you that it is therein correctly stated that His Excellency told Mr. Spilthorn that ample time would be allowed to Lamirande to obtain a writ of *habeas corpus* before the execution of the warrant for his extradition.

I am further to apprise you that the Governor General expressly declines to sanction any publication of language held by him in reference to the matter, and that any such publication must be understood to be made without his consent.

I have, &c.,

(Signed,)

DENIS GODLEY,
Governor's Secretary.

J. Doutre, Q.C., Montreal.

No. 36.—*Mr. Doutre to Mr. Godley.*

MONTREAL, September 13th, 1866.

SIR,—I have the honor to acknowledge the receipt of your letter of the 12th instant, in which you inform me that you have laid the paper inclosed in my letter of the 11th instant before the Governor General, and that it is therein correctly stated that His Excellency told Mr. Spilthorn that ample time would be allowed to Lamirande to obtain a writ of *habeas corpus* before the execution of the warrant for his extradition, and that the Governor General expressly declines to sanction any publication of language held by him in reference to the matter, and that any such publication must be understood to be made without his consent.

In reference to this latter part, I beg leave to remind what I have said in my letter of the 11th instant, and, to avoid misunderstanding on this matter, you will please inform His Excellency that I do not intend publishing any thing in which His Excellency might feel some interest, but the paper inclosed in my letter of the 11th instant, and the first portion of your letter of the 12th instant, relative thereto.

I have, &c.,

(Signed,) JOSEPH DOUTRE.

Denis Godley, Esq.,
Governor's Secretary,
Quebec.

No. 37.—*Charge addressed to the Grand Jury by the Hon. Lewis Thomas Drummond, one of the Justices of the said Court, at the opening of the Term at Montreal, on the 24th day of September, 1866.*

PROVINCE OF CANADA, }
District of Montreal. } Court of Queen's Bench, Crown Side, September Term, 1866.

GENTLEMEN OF THE GRAND JURY:

We must all feel a deep interest in maintaining the purity and efficiency of an institution such as the Grand Jury, which has been established for the twofold purpose of denouncing and bringing to justice all those who violate the law, and of protecting from false accusation all those who respect it.

The usefulness of this great and time honored institution (imperfect as it is in some respects, like all human devices) cannot be preserved, its abuse cannot be prevented, unless the men who are summoned to carry it into operation have imbibed a clear conception of their duties, their powers, and their immunities.

To define to you, therefore, these three subjects, to condense them in the most precise and practical manner, I can, after a rigorous analysis of the law and the best authorities relating to them, seems to be my first and paramount duty on this as on all similar occasions.

POWERS AND DUTIES.

Your powers and duties, gentlemen of the Grand Jury, may be defined in the following manner:

You have power, and it is your duty, to inquire into all public offences committed or triable in this District, and to report them to this Court, either by indictment or presentment.

After such inquiry upon an indictment, if you (at least twelve of you,) believe the person accused guilty of the offence therein charged against him, you should return the indictment into Court, after your foreman has caused to be written on the back thereof the words "true bill" or "a true bill," and placed his signature below these words.

If you believe the accusation to be unfounded, or not sufficiently proved to justify a public trial, you should return the indictment into Court as "no bill," or "ignoramus." The latter form has, however, become well nigh obsolete, at least in Lower Canada.

Having stated that you may return into Court the result of your inquiries, either by indictment or presentment, it is due to you that I should explain clearly the distinction to be drawn between these two modes of proceeding.

INDICTMENT AND PRESENTMENT.

An "indictment" is an accusation in writing submitted to, and after due enquiry, presented by the Grand Jury to a competent Court charging a person with a public offence. A "presentment" is an informal statement in writing, by the Grand Jury, apprising the Court that a public offence has been committed within the district, and that there is a reasonable ground for believing that a particular individual named or described has committed it.

Although Grand Juries have undoubtedly the right to make any such presentment, and although it is the duty of any Grand Juror cognizant of every offence not brought up by indictment, to inform his brother jurors thereof, yet the practice usually followed in Lower Canada is to instruct the Crown Prosecutor, or in his absence the Clerk of the Crown, to proceed in the ordinary course. If, however, you deem it proper to make any such presentment, you should annex notes of the evidence taken in support of it, signed by your foreman, and you should not announce, in open Court, the name of the person accused; while the Court, if in its discretion it should order further proceedings, would be bound to prevent publicity being given to the particulars of such a presentment until an arrest had been effected.

CERTAIN CASES EXCEPTED.

Under a recent Statute you are forbidden to enquire into any bill of indictment for perjury, subornation of perjury, conspiracy, obtaining money under false pretences, or for keeping a gambling house or disorderly house, or for any indecent assault, unless the prosecutor has been bound by recognizance to appear to answer such indictments, or unless such indictment be preferred by the direction or with the consent in writing of a Judge of the Court of Queen's Bench, or of the Superior Court, or of the Attorney General or Solicitor General of Lower Canada.

PROOF REQUIRED.

No indictment should be returned as "a true bill," and no presentment should be made without the concurrence of at least twelve jurors. No indictment should be returned into Court as "no bill" until all the witnesses named in it have been heard, if present or accessible; but you are not obliged to hear all such witnesses, if you are fully convinced by the evidence of one or more that the accused should be put upon his trial. The safer course, however, is to examine them all. In the investigation of any charge, either upon an indictment, or for the purpose of a presentment, you can receive no evidence other than such as is given by witnesses produced and sworn before you, or furnished by confession made upon voluntary examination before a magistrate, or by other legal documentary evidence.

No affidavits or depositions should be received by you in evidence, except such as contain dying declarations in cases of alleged murder or manslaughter. Even these should not be read as evidence before you without previous consultation with the Counsel for the Crown, or in his absence with the Clerk of the Crown, or by permission of the Court.

You can receive none but legal and the best evidence the case will admit of, to the exclusion of "hearsay," or secondary evidence.

You are not bound to hear evidence for the defence, but it is your duty to weigh all the evidence submitted to you, and when you have reason to believe that other evidence within your reach may alter the character of the charge or explain it away, you should order such evidence to be produced.

You should return "a true bill" against no man, unless upon such evidence as in the aggregate would, in your judgment, if unexplained or uncontradicted, warrant a conviction upon trial by a Petit Jury; but in cases where you entertain any reasonable doubt, the protection you owe to the community would seem to require that you should allow that balance to incline against the accused which a Petit Jury, after a full investigation of the facts, if in the same frame of mind, would reverse in his favor.

An indictment for murder, where the slaying is proved against the accused, may be returned as a "true bill" for manslaughter, if you are fully convinced that the death involved no malice aforethought, either direct or implied; but the safer course, in the interest of the public, is to return a true bill for murder, leaving it to the Petit Jury, under the direction of the Court, to discriminate between these two species of homicide.

DUTIES APART FROM INQUIRY INTO PUBLIC OFFENCES.

In addition to the duties incumbent upon you in direct relation to public offences, you are also bound to inquire into the condition and management of the public prisons, and into the cause of detention of every person imprisoned on any charge and not indicted.

ASSISTANCE DUE.

In order to enable you to perform those high functions with efficiency, you are entitled to (at all reasonable times) the advice of the Court, or of the Counsel representing the Crown, or in his absence, of the Clerk of the Crown, and to obtain the assistance of the latter (or of any other person deputed by him,) in the marshalling and examination of witnesses before you; but no other person apart from the witness actually under examination should be allowed to appear in the Grand Jury Room while you are engaged in the performance of your duties, except the private prosecutor, in cases not conducted by counsel, and you must allow no person whomsoever, to be present in your room while you are expressing your opinions or giving your votes upon any matter before you.

You are also entitled to free access, at all reasonable times, to the public prison, and to an examination, without charge, of all public records connected with the performance of your duties as Grand Jurors.

IMMUNITIES.

Your immunities consist principally in the protection with which the law surrounds you against all responsibility, all liability of being questioned or called to account in any way for anything you may say, or any vote you may give in the Grand Jury Room, relative to a matter legally pending before you, except in the improbable event of a Grand Juror committing perjury in making an accusation or giving testimony to his fellow jurors.

SECRECY.

I need not allude to the secrecy you are bound to observe as to all proceedings, for you have pledged yourselves by the oath you have taken to keep the secrets of your fellow-jurors as well as your own, and that solemn pledge is binding on you, not only while you are fulfilling your duties as Grand Jurors, but for all time thereafter.

Having set forth the rules by which you are to be guided in your deliberations, I come to the consideration of the calendar of offences, which it will be your duty to investigate; it is, I regret to say, a heavy one, comprising some accusations of a most heinous character.

The instructions given to you above will, I trust, assist you in your enquiry, and you may rely upon the determination of the Court to award adequate punishment to all who shall be found guilty of the violations of the law.

But, apart from these vulgar crimes, I deem it my duty to call your attention to a startling violation of law, committed by several persons connected with the administration of justice. I allude to the case of E. S. Iamirande, who, while his petition for a writ of

habeas corpus was under consideration before one of the Judges of the Court, and after His Excellency the Governor General had assured him, through his counsel, that he would have ample time to obtain a decision upon his case by this Court before any warrant of extradition should issue, was forcibly and illegally carried off beyond its jurisdiction.

A crime of this character, involving a flagrant contempt of the judiciary of our country—an insult to our gracious Sovereign in the person of her representative, our good and noble Governor General—and a violation of the writ of *habeas corpus*, the foundation of all our liberties as British subjects, demands of you, as the Grand Inquest of this District, a strict and earnest investigation.

You may now retire to your Chambers, where, I have no doubt, you will perform the arduous labors which await you, with full satisfaction to your own conscience, and to the country you represent.

No. 38.—*Presentment of the Grand Jury.*

PROVINCE OF CANADA, } Court of Queen's Bench, Crown side, September Term, 1866.
District of Montreal. } May it please the Court.

Having terminated the business submitted to us, before seeking our discharge at the hands of the Court, we beg leave to offer our sincere thanks to his honor the presiding Judge, for the interesting and careful charge he was pleased to deliver to us on the first day of the present term. By the luminous instructions given to us with regard, not only to our rights and duties, but also as to our immunities and obligations, we have been much aided in the long and sometimes difficult investigations in which we have been engaged, and we trust that with the help so given we may have been enabled to discharge our duties with advantage to the country as well as with comparative ease to ourselves. We cannot, however, fail to express our regret that the work thrown upon us has been so heavy, and it is impossible to conceal the fact that crime, and that of the most serious description, increases almost in proportion to the material prosperity of this community. In particular, the jurors have seen, with some concern, the alarming increase of the crime of larceny, which is in some measure owing to the facility with which the plunder is disposed of. Much praise, however, is due to the detectives Cullen and Bouchard, for their zeal and ingenuity in finding out the haunts of these depredators and bringing them to justice. On the other hand, it is to be regretted that certain county magistrates send up for trial, at a vast expense to the country, cases too insignificant for the consideration of this Court. In a word, we have endeavored, and we hope successfully, to keep up to the rule laid down in our oath, to present no one from malice, hatred, reward, or hope of reward, and to leave no one unpresented from fear, favor, or affection.

The Jurors visited the Common Gaol, and find that so far as the accommodation goes, everything is in perfect order; but the Grand Jury think it right to draw attention to the following facts:—

Five and twenty years ago the Gaol was constructed to hold 250 prisoners, and on the 6th of October there were 440 inmates, male and female, besides children.

On the 9th instant, when the Grand Jurors went there, the actual number was:—females, 209; males, 206, making a total of 415; of whom there were, of female lunatics, 11, males, 4; leaving a balance of criminals, 400.

The Grand Jurors also find that in the year 1845 there were 1,313 commitments; in 1865 the commitments amounted to the enormous number of 4,424; while the increase in the number of turnkeys has been only two, one man and one woman.

In order to supply room for this increased number of prisoners, the debtors' prison has been taken up, so that we find two debtors occupying the convicts' ward; and a woman sentenced to a fine for selling liquor without licence, which she cannot pay, obliged to keep company with the most abandoned women and idiots.

This seems to be a hard measure of justice.

But want of space, which thus prevents any proper classification, is not the only fault of the Gaol; it is also very insecure. During the last year there have been seven escapes, one being that of a youth who was twice convicted of larceny on his own confession, during this term.

The Grand Jurors feel that their duty would be only half done, did they fail to offer

any practical suggestions to improve the prison. They therefore beg leave to present that in their opinion there should be constructed forthwith a house of correction for the incarceration of all those convicted before the Judge of Sessions out of Sessions, and before the Recorder; and that to render the Gaol more secure, the enclosure-wall should be raised at least four feet, and be furnished with a round stone coping. They also consider that the number of turnkeys and of the armed guard should be increased, and that a house for the gaoler should be constructed in the yard, apart from the prison; with these changes and the addition of a house of correction, the Grand Jury believe the present Gaol may be made to meet the requirements of the district for many years to come.

Among the prisoners now confined in the Montreal Gaol, are a certain number of those taken during the Fenian raid in June last. The Jurors hope that no unnecessary delay will occur in bringing these persons to trial.

The Jurors have learnt with regret that the Corporation of Montreal persists in licensing houses which have been made the subjects of complaint by the police, and this in violation of a bye-law of the City Council.

In conclusion, the Jurors desire to express the satisfaction they feel that the excitement consequent upon the invasion of our Provinces in the month of June last, by bands of wicked and lawless men, citizens of a neighboring country, between whose Government and ours no cause of disagreement existed, have now happily subsided. The good faith of the American Government in maintaining international obligations, together with our own watchfulness and due preparation against any attempt at a repetition of such unholy designs, it is to be hoped, will in future allow the inhabitants of this country to pursue their usual avocations in peace.

The Court drew the attention of the Grand Jurors to the extradition of Ernest Sureau Lamirande. They now submit the affidavit of Joseph Doutre, Esq., Q.C., also their answers to a circular letter containing interrogatories for the consideration of the Court.

The whole respectfully submitted.

(Signed,)

J. W. DORWIN,

Foreman.

Grand Jury Room,

Montreal, October 10th, 1866.

No. 39.—*Motion for Copies of Papers by Mr. Doutre.*

PROVINCE OF CANADA, } In the Court of Queen's Bench; Crown side. *Ex parte*, Ernest
District of Montreal. } Sureau Lamirande, for Writ of *Habeas Corpus*.

Motion on the part of the petitioner, that for reasons mentioned in the affidavit now filed, and on payment of the usual fees, he be allowed to have a copy of the papers filed by the Grand Jury of this district, with their presentment, and of the consultation asked by the said Grand Jury, from the Honorable Judge presiding over this Court, upon which consultation the said Honorable Judge gave the answer filed of record in this matter.

(Signed,)

JOSEPH DOUTRE,

Attorney for the Petitioner.

Montreal, October 12th, 1866.

PROVINCE OF CANADA, } In the Court of Queen's Bench; Crown side. *Ex parte*, Ernest
District of Montreal. } Sureau Lamirande, for *Habeas Corpus*.

Joseph Doutre, of the City of Montreal, Queen's Counsel, being duly sworn, doth depose and say:—

That on the first day of October, instant, the deponent has been summoned to be and appear on the 2nd day of the said present month, before the Grand Jury then sitting in the district for the present term of this Court, the deponent being given to understand that he was so summoned to be examined in relation to the circumstances under which the said Ernest Sureau Lamirande had been removed from the jurisdiction of the Judges of this Court, while his application was pending for his discharge under a writ of *habeas corpus*; that the examination of the deponent was postponed from day to day until the afternoon of the 9th day of this month, when he was requested to attend before the said Grand Jury; that when the deponent was examined, the Crown Prosecutor, T. K. Ramsay, Esq., Advocate, was present in the Grand Jury Room, under the pretence, as expressed

by himself, of marshalling the evidence, to be taken by the said Grand Jury on the subject above mentioned.

That the said T. K. Ramsay did in effect take down in writing the evidence given by the deponent, frequently interrupting the deponent, and discussing the relevancy of the evidence then taken down; that after the deponent had terminated what he considered to be the facts inquired into by the Grand Jury, the said T. K. Ramsay expressed the desire of cross-examining the deponent; that the deponent then expressed to the Jury that as long as the facts of the case were unknown to them, they might see no objection in the presence of the said T. K. Ramsay, in their room; that since the deponent had related the facts then written down, it was and should be manifest to them that the said T. K. Ramsay had been one of the prompters and accomplices in the conspiracy which had resulted in the fraudulent removal of the said Ernest Sureau Lamirande; and that if the said T. K. Ramsay was allowed not only to marshall the evidence, but also to control it, as he had attempted to do since the beginning of the deponent's deposition, any person accused of ordinary crimes could claim with as much right as the said T. K. Ramsay the privilege of marshalling and controlling the evidence produced against him; that the said T. K. Ramsay then persisting in remaining in the Grand Jury Room, and taking part in their inquest, the Grand Jury requested both the deponent and the said T. K. Ramsay to withdraw; and shortly after the Grand Jury came in Court and transmitted to the Honorable Judge then sitting, a paper, which was presumed by the deponent to be a consultation with the Honorable Judge, by the character of the answer given in open Court by the Honorable Judge; that after the receipt of that answer, the deponent was again called before the Grand Jury, there he found the said T. K. Ramsay still taking down the evidence given by the deponent, and directing the proceedings of the Grand Jury as heretofore; that in the opinion of the deponent, founded on the above facts, the proceedings of the Grand Jury were brought to an abrupt and unexpected termination by the persistence of the said T. K. Ramsay, in controlling the proceedings of the Grand Jury; that the petitioner, Lamirande, has adopted proceedings in England, and petitioned Her Majesty, in order to obtain Her protection against the consequences of the conspiracy which has resulted in the removal of the petitioner from the jurisdiction of Judges of this Court; and that the petitioner, in order to show to Her Majesty how justice is administered in this district, and the participation of the Crown Prosecutor in defeating the ends of justice, is entitled to have copies of the papers mentioned in the accompanying motion, and hath signed.

(Signed), JOSEPH DOUTRE.

Sworn and acknowledged before the Court, on the 12th day of October, 1866.
(Signed,) DESSAULLES & ERMATINGER,
Clerk of the Crown.

No. 6.—*Copy of a Despatch from Viscount Monck to the Right Honorable the Earl of Carnarvon.*

(No. 182.—Received November 14, 1866.)

(Answered, No. 110, November 24, 1866.)

QUEBEC, October 31, 1866.

MY LORD,—With reference to my despatch, No. 175, of the 25th October, I have now the honor to transmit to Your Lordship copies of the affidavit therein alluded to.

I have, &c.,

(Signed,) MONCK.

The Right Hon. the
Earl of Carnarvon,
&c., &c., &c.

[Translation.]

(Inclosure in No. 6.)

Affidavit of Edme Justin Melin.

In the City of Quebec, Province of Canada, District of Quebec,—Edme Justin Melin, *Inspecteur Principal de Police*, of Paris, France, being duly sworn on the Holy Evangelists, deposeth and saith: That on the 11th day of March last, the safe of the Branch of the Bank of France at Poitiers, in that part of the French Empire called Haute-Vienne,

was robbed of a sum of 700,000 francs, and that the robbery was effected and committed by Charles Ernest Sureau de Lamirande *dit* Lamirande, Cashier of the said Branch of the said Bank of France at Poitiers, Haute-Vienne aforesaid.

That at or about the same time the said Charles Ernest Sureau de Lamirande *dit* Lamirande escaped from the territory of the French Empire and proceeded to the City of New York, in the State of New York, one of the States of the Republic of the United States of America.

That on or about the 9th day of April last, the said Lamirande was arrested in the said City of New York, and that while proceedings for his extradition were in progress, he succeeded, on the 3rd day of July instant, in escaping from the aforesaid city and from the judicial authorities of the United States of America. That from information which is in his possession, he has every reason to believe that the said Charles Ernest Sureau Lamirande *dit* Lamirande has fled to Canada and is still concealed in some part of that Province.

That, moreover, the said Charles Ernest Sureau de Lamirande *dit* Lamirande did fraudulently falsify the books of the said Branch of the said Bank of France at Poitiers, Haute-Vienne aforesaid, by causing to appear therein as being in the safe of the said Bank such sum of 700,000 francs aforesaid, which he had appropriated, and that he was further guilty of forgery in altering and falsifying his balance sheet (*borderseau de situation*), and that he therefore comes within the provisions of the existing treaty between England and France for the extradition of criminals.

This deposition being read, the deponent persists therein, stating that it contains the truth, and hath signed.

(Signed,)

E. J. MELIN.

Sworn before me at Quebec, this 18th
day of July, in the year 1866.

(Signed,) J. T. TASCHEREAU,
J. S. C.

No. 7.—*Copy of a Despatch from Viscount Monck to the Right Honorable the Earl of Carnarvon.*

(No. 193—Received Nov. 26th, 1866.)

QUEBEC, November 10th, 1866.

MY LORD,—With reference to previous correspondence respecting the case of Lamirande, I have the honour to transmit herewith, for your Lordship's information, three copies of a letter and of its inclosures, from Mr. Ramsay, Crown Prosecutor, at Montreal.

I have, &c.,

(Signed,)

MONCK.

Right Hon. Earl of Carnarvon,

&c., &c., &c.

(Inclosure 1 in No. 7.)

Mr. Ramsay to Mr. Godley.

MONTREAL, November 3, 1866.

SIR,—At the request of the Attorney General for Lower Canada, I have the honor to inclose you three copies of a paper filed by me at the request of Mr. Justice Drummond, containing certain admissions on his part which had been previously made by him in open Court, in case His Excellency the Governor General should think it right to forward them to England. The value of these admissions is that by my disculpation by the Judge, the alleged conspiracy falls to the ground, for without conspirators there cannot be conspiracy. Now, previously, Mr. Justice Drummond had openly disculpated the Deputy Sheriff, Mr. Schiller, and the gaoler, and privately he had done as much for Messrs. Pominville and Bétournay, who were the only other persons actually employed in the extradition of Lamirande.

I have, &c.,

(Signed,)

T. K. RAMSAY.

D. Godley, Esq.,
&c., &c., &c., Quebec.

(Inclosure 2 in No. 7.)

PROVINCE OF CANADA, } Court of Queen's Bench, Crown side, September Term, 1866.
 District of Montreal. } The Queen vs. Thomas Kennedy Ramsay.—On rule to show cause.

In consideration of the declaration made this morning in open Court by Mr. Justice Drummond, to the effect that in his remarks, with relation to the extradition of Ernest Sureau Lamirande, in Chambers, on Saturday, the 25th day of August last, and on Monday, the 27th day of August last, he did not say nor did he intend to insinuate that the said Thomas Kennedy Ramsay was the party guilty of any conspiracy in the said affair, nor in the falsification of a public document alluded to in the said Judge's remarks, nor of any act of a nature to compromise his character, individually or personally. The said Thomas Kennedy Ramsay withdraws whatever may be personally offensive to Mr. Justice Drummond, in two certain letters, published in the "*Montreal Gazette*," on the 28th and 30th days of August last, and bearing the signature of him, the said Thomas Kennedy Ramsay, the said letters having been only written in answer to the remarks of the said Judge, as reported in the "*Herald*" of the 27th and 29th days of August last; and the said Thomas Kennedy Ramsay further regrets that he should have been induced by such reports to misinterpret the words as also the intentions of the learned Judge.

(Signed,) T. K. RAMSAY.

Montreal, November 2, 1866.

No. 8.—*Copy of a Despatch from Lieutenant General Sir J. Michel to the Right Hon. the Earl of Carnarvon.*

MONTREAL, January 3, 1867.

(No. 4.—Received January 25, 1867.)

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's despatch No. 114, of the 14th December, informing me that the Frenchman, Lamirande, had been tried in France and found guilty of Forgery (*Faux*), and sentenced to ten years' reclusion. I have, &c.,

(Signed,) J. MICHEL.

The Right Hon. the Earl of Carnarvon,
 &c., &c., &c.

DESPATCHES FROM THE SECRETARY OF STATE.

No. 1.—*Copy of a Despatch from the Right Hon. the Earl of Carnarvon to Viscount Monck.*

No. 61.

DOWNING STREET, September 22, 1866.

MY LORD,—I have the honor to transmit to you the enclosed copy of a despatch from Her Majesty's Ambassador at Paris, to the Secretary of State for Foreign Affairs, accompanied by a letter from a French subject, named Lamirande, complaining of his having been given up to the French Government under the Extradition Treaty, and more especially of the manner in which he was removed from Canada whilst his case was still under the consideration of a Judge of the Court of Queen's Bench in the Province.

I received from you a telegram, stating that Lamirande had been delivered up under your warrant, and that he had sailed in the *Damascus*, owing to delay in obtaining a *habeas corpus*, but the telegram contained no further particulars.

The statement made by Lamirande in his present letter, and the accounts which have appeared in the public journals, give an account of the case, which demands full enquiry and explanations. I have, therefore, to request that Your Lordship will transmit to me, if you have not done so already, a complete report upon the case. This report will show under what circumstance and upon what advice Your Lordship's warrant was issued, and also how it happened that Lamirande was withdrawn after his case was partly heard before

a Judge of the Supreme Court, and whether any Officers of Justice or persons in the service of your Government had any share in that proceeding, and, if so, what steps have been taken in consequence.

I have, &c.,

(Signed,)

CARNARVON.

Viscount Monck,
&c., &c., &c.

(Inclosure 1 in No. 1.)

Earl Cowley to Lord Stanley.

(No. 249.)

PARIS, September 14, 1866.

MY LORD,—Maitre Lachaud, one of the most eminent members of the French Bar, addressed me a letter, of which I have the honor to enclose a copy, transmitting a letter from a Frenchman named Lamirande, who appears to have been given up by the Government of Canada to the French Government, under the Extradition Treaty of 1842.

As Lamirande requests that his letter may be laid before Her Majesty's Government, I inclose it herewith.

I have, &c.,

(Signed,)

COWLEY.

Lord Stanley,
&c. &c., &c.

(Inclosure 2 in No. 1.)

M. Lachaud to Lord Cowley.

[Translation.]

PARIS, September 12, 1866.

MY LORD,—I have the honor to transmit to Your Excellency a letter which Mr. Lamirande, formerly Cashier of the Bank of France at Poitiers, has sent to me for communication to you.

I have not seen Lamirande and I can therefore add nothing to the protests which he raises, but if the facts advanced by him are true they have an importance which will doubtless strike Your Excellency, and I confine myself to drawing your kind attention to this letter.

I am, &c.,

(Signed,)

A. LACHAUD,
Avocat de la Cour Impériale.

Earl Cowley,
&c., &c., &c.

(Inclosure 3 in No. 1.)

M. Lamirande to Earl Cowley.

PRISON OF THE POLICE PREFECTURE,

[Translation.]

PARIS, September 11, 1866.

EXCELLENCY,—I have been carried off from the Prison of Montreal, where I had been committed on an unjust sentence to await my Extradition, under such circumstances that in making them known to your Government, I think it will perceive therein a violation of the English Law, and of the Treaty of Extradition between France and England, and that it will be able to authorise you to reclaim me from the Emperor's Government.

The sentence which had committed me for the purpose of Extradition was appealed against, and the case, already brought on and argued before a Judge of a higher rank than the first one, was to be concluded the next day at 11 o'clock in the morning, by the decision of this Magistrate, when the following facts occurred :—

At 11 o'clock at night, after having been present at the pretended departure of the Montreal train for Quebec, the Magistrate in question came to assure himself that I was safe in prison. Between 1 and 2 o'clock in the morning I received an order from the Governor of the Prison to get up and depart. The French Police Officer, who was sent in pursuit of me, took possession of me with the assistance of several other persons, by force,

and without being able to show me the order by virtue of which they were carrying me off, I was placed in a carriage and taken to a Station of the Montreal and Quebec Railway (I think the St. Charles Station) and not to the Montreal terminus. For making a false start, in order to deceive the public and my counsel as well as the Judge, who was to deliver judgment the following morning at 11 o'clock, and the authorities themselves, the train was started at its usual time, 10 o'clock, and was stopped for three or four hours at the above mentioned station. I was shut up in custody of three men in a compartment reserved for the use of the servants of the Company.

I saw Mr. Spilthorn, one of my New York counsel, pass by, probably the only person who had succeeded in discovering my abduction. I wished to speak to him; I was prevented by force. On arriving at Quebec I was put on board the "Damascus," the departure of which had been delayed, and where the Counsel of whom I have just spoken, asked by virtue of what order I was thus carried off; the persons who surrounded me replied, that they had no explanation to give him; that they were executing their orders, and had no papers to show. He retired, protesting against this incredible abuse of power.

On arriving at Liverpool, where there was no Magistrate competent to take cognizance of my case, I was taken to London, where I was told such a Magistrate would be found.

There I was taken by night to an hotel, situated in a street the name of which I do not know, nor yet that of the hotel. Three persons came there; I was told they were lawyers engaged by a despatch from Mr. Doutre, my counsel at Montreal. After a conversation, at which I was not present, between these gentlemen and a Canadian who accompanied me from Montreal with the French Police officer, these three gentlemen retired without my being able to obtain any communication with them.

At six o'clock in the morning I was taken from the Hotel, and conducted by railway to Dover, from which place I was embarked for France.

When I tell your Excellency that the sentence of the first Judge makes me answerable for the crime of forgery, which I do not consider I have committed, either according to French or English laws; that in the proceedings taken against me at New York, this count in the indictment was even abandoned, that the Crown counsel at Montreal himself acknowledged that I had not committed this crime; that besides I do not at all demand to be given up to England to be set at liberty there, but only in order that the proceedings interrupted by force at Montreal may go on, or that I am ready, if it is preferred, to submit the case to the High Court of England, or it matters not to what other jurisdiction, it appears to me that the Queen's Government may be impressed by these reasons, and may request you to reclaim me from the Government of the Emperor.

I beg Your Excellency to be pleased to transmit my letter to the English Government, and to acknowledge its receipt.

I have, &c.,

(Signed,) E. S. LAMIRANDE.

P.S.—The document which those persons who carried me off did not possess, was, I think, that which is required by the treaty, in virtue of which I could have been legally arrested in France, on the charge of the crime for which my extradition was demanded.

I have just now heard that I am about to be transferred to the Poitiers prison (Department of Vienne,) where I beg Your Excellency to acquaint me with the result of my complaints.

My name and surnames are Sureau Lamirande, Charles Constant Ernest.

No. 2.—*Copy of a Despatch from the Right Hon. the Earl of Carnarvon to Viscount Monck.*
(No. 67.)

DOWNING STREET, September 27, 1866.

MY LORD,—With reference to my Despatch, No. 61, of the 22nd instant, calling for a report on the case of Lamirande, I have the honor to inform Your Lordship that the Secretary of State for Foreign Affairs has instructed Her Majesty's Ambassador at Paris to address a representation to the French Government with a view of delaying

any further judicial proceedings against the prisoner until Her Majesty's Government are in possession of more authentic information in regard to this case.

I have, &c.,

(Signed,)

CARNARVON.

Viscount Monck,
&c., &c., &c.

No. 3.—*Copy of a Despatch from the Right Hon. the Earl of Carnarvon to Viscount Monck.*

(No. 84.)

DOWNING STREET, October 27, 1866.

MY LORD,—I have the honor to acknowledge Your Lordship's Despatch, No. 155, of the 6th instant, explaining the circumstances under which a prisoner, named Lamirande, was delivered by the Canadian Authorities to the French police, while his case was under the hearing of the Court of Queen's Bench at Montreal, and before the writ of *habeas corpus* was issued. I will only now say that I have read with great concern the history of this transaction, which is engaging the anxious consideration of Her Majesty's Government.

I have, &c.,

(Signed,)

CARNARVON.

Viscount Monck,
&c., &c., &c.

No. 4.—*Copy of a Despatch from the Right Hon. the Earl of Carnarvon to Viscount Monck.*

(No. 110.)

DOWNING STREET, November 24, 1866.

MY LORD,—Her Majesty's Government have had under their consideration your Despatches, No. 155, October 6; No. 164, October 18; No. 173, October 25; No. 174, October 25; No. 175, October 25, and No. 182, October 31, 1866, respecting the case of E. S. Lamirande, recently surrendered to the French authorities.

This person was apprehended on a charge of forgery committed in France, under a warrant issued by you on requisition of the French Consul General. He was brought duly before a Magistrate, and on the 22nd of August committed by him to gaol with a view to his surrender. But some days before that date you were informed that the prisoner intended to apply for a writ of *habeas corpus*, as he was clearly entitled to do, and you promised that time for making such an application should be allowed.

On the 24th of August you signed a warrant authorising the prisoner's surrender. This step you took on the advice of your Solicitor General, and you state that when you took it neither you nor he were aware that any application had been made for a writ of *habeas corpus*.

You did not take any steps to ascertain this point; but as two days appeared to have elapsed since the committal of the prisoner to Gaol, you considered that ample time had been allowed to enable him to obtain that writ.

The application in fact was made and argued before the Court of Queen's Bench at Montreal, on the very day on which you signed your warrant at Quebec. The Judge had reserved his decision till the following day. Meanwhile, the warrant, once signed by you had become available by those who were interested in its immediate execution. On the evening of the 24th it was presented to the prison authorities at Montreal, who, of course, were bound to obey it. Under its authority Lamirande was delivered over, and at once sent off to France.

The next morning the Court declared him entitled to his release.

Various questions have been raised with reference to this surrender, which it is necessary to observe, purported to be made under authority of the Imperial Act 6 and 7 Vic., cap. 75. For the purposes of that Act (which in this respect is differently framed from a similar Act of the same year, relating to the United States), I am advised that the requisition for Lamirande's delivery ought to have been made, not by the Consul, but by a

“Diplomatic Agent,” in the strict sense of that phrase, and that the facts alleged against him did not constitute the crime of forgery, according to the English law, on the plea of which his surrender was claimed.

These, however, are matters on which I am not surprised that you should have guided yourself by the advice which you received from your Solicitor General. I can only regret that his opinion, on the faith of which your warrant was signed, should have so materially differed from that adopted by the Court of Queen’s Bench in Canada, and by Her Majesty’s Law Officers in this country.

The proceeding by which the French authorities were enabled to obtain possession of the person of Lamirande, requires, I am sorry to say, more serious notice from me.

You appear to consider that, having reference to the nature of the offences charged against this person, to the general duty of contributing by all proper means to the execution of substantial justice, and to the written and unwritten obligations which subsist between England and France—two civilized and friendly nations—it was your duty to allow to the prisoner little more than the smallest possible time within which it was practicable for him to obtain a decision on his application for the writ of *habeas corpus*. I by no means undervalue the considerations by which your judgment was influenced. I need hardly say that I give you entire credit for being exclusively actuated by them. But I am obliged to add, that I wholly dissent from the conclusion at which you arrived. Being fully informed of the prisoner’s intention to apply to the Supreme Court, it was your duty not to regulate your conduct by conjectures which any accident might disturb, and which the time required by the Judge for deliberation did in fact disturb; but to take care that the authority which you hold from Her Majesty was not directly or indirectly abused to frustrate the administration of justice in a matter which had been brought by legitimate means under the cognizance of a court of law, and was being effectively prosecuted by the parties interested. You observe that the prisoner has no right to take advantage of his own negligence in obtaining the writ of *habeas corpus*, which would have afforded him the necessary protection; but I think that you here assume a negligence on his part which, as far as the papers before me enable me to judge, has had no existence. For some days you had had reason to anticipate that Lamirande’s person would be brought under the protection of the Queen’s Bench, and before you authorized his surrender to the French authorities it would have been only a proper exercise of your discretion to ascertain whether he was or was not under that protection. The omission to take this precaution has led to a most unfortunate abuse of your authority.

The probable, or even if it were so, the undoubted guilt of the prisoner cannot affect the question. A great scandal has taken place, and an insult has been passed upon the dignity of the law and the regular administration of justice in the Canadian Courts. It is true, as you say, that a person charged with the offences, and arrested under the circumstances of this case, deserves no special favor or indulgence at the hands of the authorities, but he has a right to the protection which every accused person can claim under the humane principles of the English law, and any abridgment of that protection tends to shake the confidence of society in the execution of justice, and inflicts a wrong upon the individual. In this case, I am obliged, therefore, with whatever reluctance, to express my decided disapproval of the course which Your Lordship was induced to adopt.

With the conduct of those Canadian Officers who have taken part in this transaction I am less immediately concerned. As from the course which circumstances have taken in this case there is no question of any demand made by a Foreign Power upon Great Britain, and no question of Imperial duty arises, it appears to me a matter which may properly be considered as falling within the province of Canadian administration. The Subordinate Officers who have had a share in the surreptitious withdrawal of Lamirande are responsible to their Superiors, and their Superiors to the Parliament, the constituencies, and the public opinion of Canada. Whilst I think that the further investigation into this matter properly belongs to the Provincial Authorities, I feel that I should not be discharging my duty if, after taking the best opinion at my command, I did not inform you that the explanations hitherto afforded by your Solicitor General of his conduct in obtaining the warrant whilst the case was actually under the hearing of the Judge, would not have been deemed satisfactory by Her Majesty’s Government.

I am not obliged to express any further opinion on this part of the subject beyond

what is implied in the observations which I have addressed to yourself. I shall have performed my duty as the servant of the Queen in communicating to Your Lordship, to whom Her Majesty's authority is delegated in one of the most important of Her Colonies, the judgment of Her Advisers respecting the course which you have adopted in this case, and the principles by which, in any future question of a similar kind, they desire you to be guided.

I have, &c.,

(Signed,)

CARNARVON.

Viscount Monck,
&c., &c., &c.

No. 5.—*Copy of a Despatch from the Right Hon. the Earl of Carnarvon to Viscount Monck.*

No. 114.

DOWNING STREET, December 14, 1866.

MY LORD,—I have been officially informed that the Frenchman, Lamirande, has been tried in France, and that he has been found guilty of Forgery (*Faux*). He has been sentenced to ten years' reclusion, and from this decision he has appealed to the Court of Cassation, where the whole question will be considered.

I have not yet received a full report of the proceedings on the recent trial.

I am informed that the punishment of reclusion is more severe than that of imprisonment, and it carries with it the penalty of the loss of all civil rights.

I have, &c.,

(Signed,)

CARNARVON.

Viscount Monck,
&c., &c., &c.



CORRESPONDENCE RESPECTING THE EXTRADITION OF M. LAMIRANDE FROM CANADA.

TABLE OF CONTENTS.

| No. | — | Date. | SUBJECT. |
|-----|---------------------|----------------|--|
| 1 | Earl Cowley | Sep. 14, 1866. | Transmitting copy of letter from Maître Lachaud, inclosing letter from M. Lamirande, protesting against his surrender to France by the Government of Canada, under the Extradition Treaty. |
| 2 | To Earl Cowley..... | " 26, " | Has referred the above to the Colonial Office. Colonial Office not in possession the facts of the case. To address representation to French Government. |
| 3 | Earl Cowley..... | " 27, " | Inclosing copy of note addressed to French Government. |
| 4 | Do | " 27, " | Extract from <i>Moniteur</i> relative to the extradition of Lamirande. |
| 5 | Do | Oct. 9, " | Inclosing copy of note from M. de Moustier. Views of the French Government. Lamirande's trial to take place in due course. |
| 6 | To Earl Cowley..... | " 25, " | Her Majesty's Government wish to be informed of date of trial. Desirable that as much delay as possible should take place. |
| 7 | Earl Cowley..... | Nov. 8, " | Note from M. de Moustier. Trial will take place on 26th of November. |
| 8 | To Earl Cowley..... | " 10, " | Instructions as to course to be taken with a view to obtain the liberation of M. Lamirande. |
| 9 | Earl Cowley..... | " 13, " | Reports having carried out instructions. Conversation with M. de Moustier. |
| 10 | To Earl Cowley..... | " 15, " | Approving language to M. de Moustier. Suggestion for settling the question. |
| 11 | Do | " 15, " | Not to claim surrender of M. Lamirande as of right. |
| 12 | Do | " 15, " | Statement of crime with which M. Lamirande is charged. |
| 13 | Do | " 16, " | Law Officer's opinion of the language held by M. de Moustier. |
| 14 | Do | " 16, " | Legal definition of the crime of forgery. |
| 15 | Do | " 19, " | Charge made against Lamirande does not bring him within the accusation of forgery. |
| 16 | Earl Cowley..... | " 20, " | Reports execution of instructions. Copy of memorandum submitted to French Government. Interview with M. de Moustier. |
| 17 | Do | " 23, " | Trial fixed for 3rd December. Precise nature of charge against Lamirande. |
| 18 | To Earl Cowley..... | " 28, " | To employ competent person to watch the trial. |
| 19 | Earl Cowley..... | Dec. 2, " | M. Treite instructed to attend the trial. |
| 20 | To Earl Cowley..... | " 4, " | Approving language. Satisfaction that result of trial will not bar the surrender of Lamirande. |
| 21 | Earl Cowley..... | " 6, " | Lamirande found guilty of forgery. Return of M. Treite who will furnish report. |
| 22 | To Earl Cowley..... | " 7, " | Reported surrender to Swiss Government, by France, of criminal whose extradition had been improperly obtained. To inquire into truth of statement. |
| 23 | Earl Cowley..... | " 11, " | Letter from M. Treite, with "compté-rendu" of trial. Précis of case. |
| 24 | Do | " 13, " | As to reported case of surrender of Criminal to Swiss Government. Letter from M. Treite, who can find no trace of such case. Considers that it refers to a case which took place in 1840. |
| 25 | Do | " 19, " | Conversation with M. de Moustier. French Government ready to consider claim of British Government for infraction of Extradition Treaty, if put forward officially. |
| 26 | To Admiral Harris.. | " 20, " | As to alleged case of return to Switzerland of person improperly surrendered to France. To report particulars of case. |
| 27 | Admiral Harris..... | " 28, " | Report as to above case. |
| 28 | To Mr. Fane..... | Jan. 9, 1867. | Recapitulating state of the case, and instructing him to recommend that M. Lamarande should be set at liberty. |
| 29 | Mr. Fane..... | " 11, " | Inclosing M. Treite's Report on the Franco-Swiss extradition case |
| 30 | To Mr. Fane..... | " 12, " | Grounds on which Her Majesty's Government regret the surrender of M. Lamirande. |
| 31 | Mr. Fane..... | " 13, " | Conversation with M. de Moustier. French Government would consider a formal demand. Incloses copy of further note which he proposes to address to M. de Moustier. |
| 32 | To Mr. Fane..... | " 14, " | Approving note to M. de Moustier. |

CORRESPONDENCE RESPECTING THE EXTRADITION OF M. LAMIRANDE FROM CANADA.

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| No. | — | Date. | SUBJECT. |
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| 33 | Mr. Fane | Jan. 14, 1867. | Has sent note to M. de Moustier. Requests that the date may be the 14th of January. |
| 34 | Do | " 15, " | Copy of note from M. Treite relative to the date of Lamirande's appeal. |
| 35 | Mr. Mackenzie | " 29, " | Extract of letter from Mr. Doutre, of Montreal, relative to charges on which Lamirande has been tried. Request to be informed how the matter stands. |
| 36 | To Mr. Mackenzie.. | " 31, " | Answer to the above. The case is under consideration. Cannot give a detailed reply. |
| 37 | Mr. Fane..... | Feb. 1, " | Inclosing copy of article from the <i>Gazette des Tribunaux</i> on the case of Lamirande. |
| 38 | Mr. Fane..... | " 25, " | Inclosing copies of letters from M. Lamirande, and from his father and mother, to Lord Cowley, begging that all further action in the case, on the part of the Her Majesty's Government, may cease. |
| 39 | Do | Mar. 3, " | Inclosing copy of a despatch from M. de Moustier in reply to the application made on the part of Her Majesty's Government for the surrender of M. Lamirande. |
| 40 | To Lord Cowley..... | " 20, " | Her Majesty's Government no longer insist on application for M. Lamirande's release, but cannot acquiesce in the doctrine and principles on which the French Government justify their refusal. |

(No. 1.)

Earl Cowley to Lord Stanley.

PARIS, September 14th, 1866.

MY LORD,—Maitre Lachaud, one of the most eminent members of the French Bar, has addressed me a letter, of which I have the honor to enclose a copy, transmitting a letter from a Frenchman named Lamirande, who appears to have been given up by the Government of Canada to the French Government, under the Extradition Treaty of 1843. As Lamirande requests that his letter may be laid before Her Majesty's Government, I enclose it herewith.

I have, &c.,

(Signed,) COWLEY.

(Inclosure 1 in No. 1.)

M. Lachaud to Earl Cowley.

(Translation.)

PARIS, September 12, 1866.

MY LORD,—I have the honor to transmit to Your Excellency a letter which M. Lamirande, formerly Cashier of the Bank of France at Poitiers, has sent to me for communication to you.

I have not seen Lamirande, and I can therefore add nothing to the protests which he raises; but if the facts advanced by him are true, they have an importance which will doubtless strike Your Excellency, and I confine myself by drawing your kind attention to this letter.

I am, &c.,

(Signed,) A. LACHAUD,
Avocat de la Cour Impériale.

(Inclosure 2 in No. 1.)

M. Lamirande to Earl Cowley.

(Translation.)

PRISON OF THE POLICE PREFECTURE,

Paris, September 11, 1866.

EXCELLENCY,—I have been carried off from the Prison of Montreal, where I had been committed on an unjust sentence to await my extradition, under such circumstances that in making then known to your Government I think it will perceive therein a violation of the English Law, and of the Treaty of Extradition between France and England, and that it will be able to authorize you to reclaim me from the Emperor's Government.

The sentence which had committed me for the purpose of extradition was appealed against, and the case, already brought on and argued before a Judge of a higher rank than the first one, was to be concluded the next day at 11 o'clock in the morning by the decision of this Magistrate when the following facts occurred:

At 11 o'clock at night, after having been present at the pretended departure of the Montreal train for Quebec, the Magistrate in question came to assure himself that I was safe in prison. Between one and two o'clock in the morning, I received an order from the Governor of the Prison to get up and depart. The French Police Officer who was sent in pursuit of me, took possession of me, with the assistance of several other persons, by force, and without being able to shew me the order by virtue of which they were carrying me off. I was placed in a carriage and taken to a station of the Montreal and Quebec Railway (I think the St. Charles Station), and not to the Montreal terminus. For making a false start, in order to deceive the public and my counsel, as well as the Judge who was to deliver judgment the following morning at 11 o'clock, and the authorities themselves, the train was started at its usual time, 10 o'clock, and was stopped for three or four hours at the above-mentioned station. I was shut up in custody of three men in a compartment reserved for the use of the servants of the Company. I saw Mr. Spilthorn, one of my New York counsel, pass by, probably the only person who had succeeded in discovering my abduction. I wished to speak to him. I was prevented by force. On arriving at Quebec I was but on board the "Damascus," the departure of which had been delayed, and where the counsel of whom I have just spoken, asked by virtue of what order I was thus

carried off, the persons who surrounded me replied, that they had no explanation to give him, that they were executing their orders, and had no papers to show. He retired, protesting against this incredible abuse of power.

On arriving at Liverpool where there was no Magistrate competent to take cognizance of my case, I was taken to London, where I was told such a Magistrate would be found. There I was taken by night to an hotel, situated in a street the name of which I do not know, nor yet that of the hotel. Three persons came there; I was told they were lawyers engaged by a despatch from M. Doutre, my counsel at Montreal. After a conversation, at which I was not present, between these gentlemen and a Canadian who accompanied me from Montreal with the French Police Officer, these three gentlemen retired without my being able to hold any communication with them.

At 6 o'clock in the morning I was taken from the hotel and conducted by railway to Dover, from which place I was embarked for France.

When I tell Your Excellency that the sentence of the first Judge makes me answerable for the crime of forgery, which I do not consider I have committed, either according to French or English laws; that in the proceedings taken against me at New York this count in the indictment was even abandoned; that the Crown Counsel at Montreal himself acknowledged that I had not committed this crime; that besides I do not at all demand to be given up to England to be set at liberty there, but only in order that the proceedings interrupted by force at Montreal may go on, or that I am ready, if it is preferred, to submit the case to the High Court of England, or it matters not to what other jurisdiction. It appears to me that the Queen's Government may be impressed by these weighty reasons, and may request you to reclaim me from the Government of the Emperor.

I beg your Excellency to be pleased to transmit my letter to the English Government, and to acknowledge its receipt.

I have, &c.,

(Signed,)

E. S. LAMIRANDE.

P.S.—The document which those persons who carried me off did not possess, was, I think, that which is required by the Treaty, in virtue of which I could have been legally arrested in France on the charge of the crime for which my extradition was demanded.

I have just now heard that I am about to be transferred to the Poitiers Prison (Department of Vienne), where I beg your Excellency to acquaint me with the result of my complaints. My name and surnames are Sureau Lamirande, Charles Constant Ernest.

(No. 2.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, September 26, 1866.

MY LORD,—I have referred to Her Majesty's Secretary of State for the Colonial Department, Your Excellency's despatch of the 14th instant, together with the letter therein inclosed from M. E. S. Lamirande, protesting against his arrest and surrender to the French police authorities at Montreal, as being unwarranted by the terms of the Extradition Convention between this Country and France.

I learn from the Colonial Office, in reply, that they are not as yet in possession of any official report from Canada of the facts of this case, and that the Governor General of that Province has accordingly been requested to send home a complete report upon it.

As, however, the circumstances attending Lamirande's Extradition, if correctly stated in his protest to Your Excellency, afford ground for questioning the legality of his extradition, I have to instruct Your Excellency to address a representation to the French Government on this subject, with the view of delaying any further judicial proceedings against the prisoner until Her Majesty's Government are in possession of more authentic information.

I am, &c.,

(Signed,)

STANLEY.

(No. 3.)

Earl Cowley to Lord Stanley (Received September 28).

PARIS, September 27, 1866.

MY LORD,—I have had the honor to receive Your Lordship's despatch of yesterday's date, on the subject of the arrest and extradition from Canada of M. E. S. Lamirande, under the provisions of the Treaty of 1843, and I enclose a copy of the note which I have addressed to M. de Lavalette in consequence of Your Lordship's instructions.

I have, &c.,

(Signed,)

COWLEY.

(Inclosure in No. 3.)

Earl Cowley to M. de Lavalette.

(Extract.)

PARIS, September 27, 1866.

About a fortnight ago I received a letter from M. E. S. Lamirande, who has lately been brought from Canada, under the provisions of the Extradition Treaty of 1843, protesting against his arrest and surrender to the French police authorities at Montreal, as being unwarranted by the terms of the said Treaty, and requesting me to bring his protest to the notice of Her Majesty's Government.

Although no official information on this subject has as yet reached Her Majesty's Government there is grave reason to doubt the legality of Lamirande's extradition, and I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to request Your Excellency to move the proper authority to delay further proceedings against Lamirande until Her Majesty's Government shall be in possession of more authentic information on which to found a further communication to Your Excellency.

(No. 4.)

Earl Cowley to Lord Stanley (Received, September 28).

PARIS, September 27, 1866.

MY LORD,—I beg leave to call your Lordship's attention to the inclosed extract from yesterday's evening edition of the "Moniteur," respecting the arrest and extradition of Lamirande, whose case was brought before your Lordship in my despatch of the 14th instant.

I have, &c.

(Signed,)

COWLEY.

Inclosure in No. 4.

Extract from the "Moniteur" of September 26, 1866.

(Translation.)

The newspapers of Canada have begun a somewhat lively discussion respecting the extradition of a fraudulent cashier of the Bank of France, who had escaped to that country. It is well known that all the forms prescribed by law have been observed in this matter. After an inquiry and decision by a competent Judge, the order to surrender the prisoner was regularly issued by the Governor General of the British Provinces. The excitement produced about this case, and which attaches to points of procedure raised inopportunately by the prisoner's lawyers, would appear to originate in a chain of considerations foreign to the question itself.

The essential points of the case have been stated with authority in a letter addressed to the principal papers of Canada, by the lawyer who represented the British Crown before the tribunal of Montreal.

(No. 5.)

Earl Cowley to Lord Stanley, (Received, October 10).

PARIS, October 9, 1866.

MY LORD,—I have the honor to transmit, herewith, copy of a note which I have received from M. de Moustier on the subject of the extradition from Canada of M. E. S.

Lamirande, in reply to the one which I addressed on the 27th ultimo, to M. de Lavalette, a copy of which was inclosed in my despatch of the same date.

M. de Moustier states that the case has been carefully examined by the Minister of Justice, who considers that there exists no irregularity which could invalidate the extradition of Lamirande, and that it would therefore be desirable that Her Majesty's Government should, before coming to any decision upon the subject, communicate to the French Government the facts complained of.

M. Baroche adds, further, that the trial of Lamirande must take place in due course, but that no measure has been taken to hasten it.

I have, &c.,

(Signed,)

COWLEY.

(Inclosure in No. 5.)

M. de Moustier to Earl Cowley.

(Translation.)

PARIS, October 8, 1866.

M. L'AMBASSADEUR,—Your Excellency, in announcing, on the 27th of September last, to the Marquis de Lavalette, that one Lamirande protested against his extradition from Canada, requested that the proceedings instituted against the accused might be delayed until the Government of Her Majesty were in possession of such information as would enable them to address a further communication to the Government of the Emperor.

The Minister of Justice, to whom the Marquis de Lavalette hastened to communicate the wish expressed by your Excellency, has carefully examined the different bearings of the case, and does not think that there is any irregularity of a nature to invalidate the extradition of the accused.

In this state of things it would be desirable that the Government of Her Britannic Majesty should, before coming to any decision, communicate to us the alleged grievances which, upon frank explanations, will doubtless disappear. M. Baroche adds, however, that no step has been taken to hasten Lamirande's trial. But Your Excellency knows too well that it is the duty of the judicial authority to conform to the rules which are laid down for its observance, without any arbitrary modification thereof, not to understand that the time is drawing near when it will become necessary to allow the law to take its course.

I likewise call to Your Excellency's attention what an anomalous course to be able to defer to bring again in question proceedings of which the result could the less be contested, as they relate to a man who lies under a charge so public that it is in some measure a case *flagrante delicto*.

Accept, &c.,

(Signed,)

MOUSTIER.

(No. 6.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, October 25, 1866.

MY LORD,—Her Majesty's Government are desirous of knowing, as soon as possible, whether the French Government propose that Lamirande should be brought to trial, and when.

Lord Carnarvon has not received from Lord Monck the particulars of the case, which he has been called upon to supply; and it is, therefore, only upon very meagre information that I am able to consult the Law Officers as to the propriety of making any formal communication to the French Government.

It is under these circumstances very desirable that as much delay as possible should take place in bringing the case on for trial.

I am, &c.,

(Signed,)

STANLEY.

(No. 7.)

Earl Cowley to Lord Stanley, (Received November 9).

PARIS, November 8, 1866.

MY LORD,—With reference to Your Lordship's despatch to me, of the 25th ultimo, and to my telegram of 2.25 A.M. yesterday morning, relative to the date to be fixed for the trial of Lamirande, I have the honor to enclose herewith copy of a note which I have received from M. de Moustier, in which His Excellency informs me that the Assizes, at which his trial will take place, commence upon the 26th of this month.

I have, &c.,

(Signed,)

COWLEY,

(Inclosure in No. 7.)

M. de Moustier to Earl Cowley.

(Translation.)

PARIS, November 6, 1866.

M. L'AMBASSADEUR,—In your letter of the 28th of October last, Your Excellency expressed to me the wish of Her Majesty's Government to be informed of the date when the trial of Lamirande was to take place.

The Minister of Justice acquaints me that the Session of the Vienne Assizes, before which the case of the accused is to be brought, will open on the 26th of this month.

Accept, &c.,

(Signed,)

MOUSTIER.

(No. 8.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, November 10, 1866.

MY LORD,—It has not been in my power before to-day to furnish Your Excellency with instructions respecting the case of M. Lamirande's forcible extradition from Canada. The papers successively received from the Colonial Office on the subject are so voluminous that even now the Law Officers of the Crown, to whom they have necessarily been referred, have not been able to consider them so fully as to admit of their forming a decided opinion on the conduct of the Colonial authorities in the transaction.

But, as regards the question as it affects M. Lamirande personally, I am advised that although Her Majesty's Government could not demand, or claim as of right, that he should be remitted to Canada in order that the question of his liability to extradition might be there legally decided, yet the circumstances of the case are so peculiar that Her Majesty's Government may fairly make a friendly representation to the French Government on his behalf.

I have accordingly to instruct Your Excellency to say to M. de Moustier, that Her Majesty's Government have ascertained that the warrant for M. Lamirande's extradition was issued by the Governor General of Canada in ignorance that the prisoner had applied to the proper tribunal to order his discharge, on the ground that the case was not within the provisions of the Treaty. It appears, that while this point was actually under discussion before the Judge, who adjourned the case to the following morning, the warrant was obtained from the Governor General, who was wholly uninformed of these facts and who would not have issued the warrant if he had been aware of them.

Your Excellency will further say that, in the opinion of the Judge before whom the matter was pending, the case did not come within the provisions of the Treaty, and that the prisoner ought not to be delivered up; and, moreover, that the prisoner was carried away under the warrant of the Governor General notwithstanding the personal protest of the Judge. Her Majesty's Government are advised that there is good reason to believe that the opinion of the Judge was well-founded in Law, and that the prisoner ought not to have been surrendered.

Your Excellency, while carefully abstaining from making any claim or demand as of

right; will say that, under these circumstances, Her Majesty's Government hope that the French Government will consent to the prisoner being replaced in that position from which he was improperly removed.

I am, &c.,
(Signed,) STANLEY.

(No. 9.)

Earl Cowley to Lord Stanley (Received November 14).

PARIS, November 13, 1866.

(Extract.)

I saw M. de Moustier yesterday afternoon, on the subject of Your Lordship's despatch of the 10th instant, relating to the case of *Lamirande*.

While carefully abstaining, in pursuance of Your Lordship's instructions, from making any demand or claim, as of right, that *Lamirande* should be remitted to Canada, I also avoided committing Her Majesty's Government to the expression of any opinion that such right did not exist; because, should the French Government be found willing to meet the wishes of Her Majesty's Government by the surrender of *Lamirande*, it might become necessary, in order to justify that surrender, that some claim, as of right, should be put forward by Her Majesty's Government.

I confined myself, therefore, to stating to M. de Moustier the circumstances attending *Lamirande's* arrest and extradition, and the doubts which prevailed in the mind of Her Majesty's Government of the legality of those proceedings; and I asked whether the French Government would not be disposed to meet the wishes of Her Majesty's Government, which I was desired to express, that *Lamirande*, in consequence of these doubts, should be replaced in the position from which he had been improperly removed.

M. de Moustier did not give me much encouragement to hope that my appeal would be favorably listened to. His Excellency said that he did not see, *Lamirande* being now in the hands of justice, by what process he could be delivered from them except by a trial.

His Excellency added that, although no blame could in any way attach to the French Government in these transactions, he was personally most anxious to meet the wishes of Her Majesty's Government. He might add that such was also the Emperor's desire. But he must confess he did not see his way to it. If, however, I would give him a written statement of the position of Her Majesty's Government in this matter, he would see the Minister of Justice upon the subject, and bring it before the Council of Ministers at its next meeting. He would also cause enquiries to be made whether any similar case had ever occurred before, that is, whether any government with which France had an Extradition Treaty, had ever recovered an individual surrendered illegally, and if so, what had been the course followed.

I gave M. de Moustier a statement compiled from the third and fourth paragraphs of your Lordship's despatch alluded to above.

(No. 10.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, November 15, 1866.

MY LORD,—I have received your despatch of the 13th instant, reporting a conversation with M. de Moustier, respecting the case of M. *Lamirande*, and I have to acquaint you that Her Majesty's Government entirely approve the language which you held on that occasion.

It appears from what M. de Moustier said to Your Excellency, that the French Government are not disposed to replace M. *Lamirande* in the same position in which he was before he was made over to the French Police Officer in Canada; doubting, on the one hand, their power to do so, as the law stands, and hesitating, on the other, as to the effect which their being so might have on public opinion in France.

The case is, indeed, beset with difficulty. It is quite clear, at least in the opinion of the Judge in Canada, before whom the case was pending, and which is adopted and confirmed by the Law Officers of the Crown in England, who have now had the opportunity

of examining all the documents connected with the transaction, that the charge on which M. Lamirande was given up did not come within the provisions of the Treaty, and that he therefore ought not to have been surrendered.

The French Government appear to hold that, having got the prisoner into their possession, certainly, as they say, without any blame attaching to them in regard to the manner in which they did so, they cannot let him go without a trial. But your Excellency may point out to M. de Moustier, that however free from blame the French Government itself may be, the French authority in Canada, who set the matter in motion, can hardly stand acquitted of having done so without warrant, and, in fact, in excess of the Treaty engagements between England and France. For the stipulation of the 1st Article of the Treaty of 1843, expressly provides, that requisitions for extradition shall be made through the medium of a Diplomatic Agent, which a Consul is not, and therefore the application of the French Consul to the Governor General in Canada, was one wholly unauthorized by treaty, should never have been made by the Consul, and should never have been listened to by the Governor General.

Lord Monck, apparently not adverting to the special terms of the French Treaty, and being doubtless anxious to meet the requisition of the French Consul, authorized the apprehension of M. Lamirande; but His Excellency may probably have been led to accede to the requisition of the French Consul without strictly scrutinizing the authority under which it was made, by imagining that the terms of the treaty between England and France on this point were identical with those of the treaty between England and the United States, with which, from the proximity of the two countries, he was more familiar.

But the two treaties are widely different in this respect. The former expressly requires the intervention of a "Diplomatic Agent," the latter stipulates in more general terms that the requisitions of extradition may be made by the "Ministers, Officers, or authorities" of the contracting parties.

Accordingly, the French Government may fairly be asked, in dealing with this question, as regards M. Lamirande, to consider that their own Consul has been party to the error which in its results has placed that person in the hands of French justice.

Her Majesty's Government, however, would not think it right, while requesting the French Government to redress the wrong which from mutual misapprehension of their respective authorities has unquestionably been done to M. Lamirande, to conceal from them what, however, they doubtless must be fully aware of, that the effect of the prisoner being remitted to Canada would most likely be that he would obtain his release, and the same result would probably attend an application to the Courts of England in the event of his being brought to this country on his way to Canada, inasmuch as a writ of *habeas corpus* might be obtained from the Courts or from a Judge in England, with a view to his discharge from custody.

It would seem, therefore, superfluous to attempt to send him to Canada, which could hardly be effected without his passing through this country.

The circumstances of the case, however, are so peculiar that it is well deserving of the attention of the French Government whether the difficulties with which it is surrounded may not be indirectly obviated.

The French Government may not be disposed to send the prisoner back to Canada with the certainty of his being set free, not by any act of grace on their part exercised there, but by the ordinary process of law. They might be as little disposed to send him to this country, and then to apply in the usual manner through the French Embassy for his extradition, with the knowledge that the legal authorities here consider the case not to come within the provisions of the Extradition Treaty. But it may be possible for the French Government, by their own action, to place the prisoner practically in the same position in which he would have stood if the legal proceedings in Canada had not been so strangely interrupted. In that case M. Lamirande would indeed have been set free, but he would not have been acquitted of the crime laid to his charge. He must have remained an exile from his country, and the French Government will probably not contend that such would be no real punishment, although it would not be the precise punishment which the law would have awarded to him if he had been tried in France.

Could not the French Government, looking to all the circumstances of the case, waive a formal trial on the condition that M. Lamirande forthwith quits France never to return,

leaving the prosecution to stand over as a guarantee for his observance of the conditions, or for his submitting to a trial if he disregarded it?

It appears to Her Majesty's Government that by some course of this kind the French Government might set at rest the question between the two Governments arising out of the case; and your Excellency will accordingly suggest it for their consideration. The ends of justice, so far as the punishment of the criminal is concerned (supposing him to be such), would at all events be partially satisfied by its adoption; while the error, for so it must be considered both of the British Colonial authorities and of the French Consular authority would have been redressed, and the position of the prisoner left as it would have been if no such error had been committed.

I am, &c.,

(Signed,) STANLEY.

(No. 11.)

Lord Stanley to Earl Cowley.

(Extract.)

FOREIGN OFFICE, November 15, 1866.

With reference to my despatch of the 10th instant, to your despatch of the 13th, and to my despatch of this day, and also my despatch of the 13th instant, and to your telegram and my reply of yesterday, I have to state to Your Excellency that Her Majesty's Government approve of your having refrained, in conversation with M. de Moustier, from disclaiming any right to demand the surrender of M. Lamirande; but the opinion of the Law Officers of the Crown is so decided on that point that I must again caution you, without further instructions, not to advance any such claim.

(No 12.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, November 15, 1866.

MY LORD,—I should have wished to furnish Your Excellency with a copy of the "*Mandat d'Arrêt*" on which the extradition of M. Lamirande was demanded by the French Consul General in Canada, but as the document does not appear to have been sent home by the Governor General, it is probable that it was returned to the Consul General according to his request, stated in the enclosed copy of his letter to the Provincial Secretary.

The crime, however, with which M. Lamirande stood charged, is described by the Consul General in the same letter in the following terms:—

"*Lequel*" (Ernest Sureau Lamirande) *s'est rendu coupable non seulement d'un vol de 700,000 francs au préjudice de cette succursale de la Banque de France à Poitiers, mais aussi du crime de faux en écriture en falsifiant ses livres et son bordereau de situation, et faisant ainsi figurer comme présente dans la caisse la somme volée de 700,000 francs, crime prévu par les dispositions du Traité d'Extradition conclu entre la France et l'Angleterre en Février 1843, dont je transcris ici une partie."*

To the same effect, Melin, the French police officer charged with the execution of the warrant, deposes, on the 18th of July:—

"*Que de plus le dit Charles Sureau de Lamirande dit Lamirande, a falsifié frauduleusement les livres de comptabilité de la dite succursale de la dite Banque de France à Poitiers, Haute-Vienne susdit, en y faisant figurer comme présente dans la caisse de la banque cette somme de 700,000 francs susdits qu'il s'était appropriée, et qu'il s'est aussi rendu coupable d'un faux en chargeant et falsifiant son bordereau de situation, et qu'ainsi il tombe sous les dispositions du Traité existant entre l'Angleterre et la France pour l'extradition des criminels."*

I am, &c.,

(Signed,) STANLEY.

(Inclosure in No. 12.)

M. Gauthier to Mr. McDougall.

(Translation.)

QUEBEC, July 18, 1866.

SIR,—I have the honor to enclose to you, herewith, an affidavit made before Judge

Taschereau, of the Superior Court of Quebec, by Edme Justin Melin, Chief Inspector of Police at Paris, with the object of obtaining the arrest and subsequent extradition of one Ernest Sureau Lamirande, Cashier of the Branch of the Bank of France at Poitiers, in the Department of Haute Vienne in the French Empire, who has been guilty not only of a robbery of 700,000 francs, to the loss of that Branch of the Bank of France at Poitiers, but also of the crime of forgery; in having falsified his books and his bank return, and in having thus represented the stolen sum of 700,000 francs as still included in his cash, a crime within the purview of the stipulations of the Extradition Treaty concluded between France and England in February, 1843, from which I here transcribe an extract:—

“By a Convention between Her Majesty the Queen of Great Britain and Ireland, and the then Sovereign of France, signed at London on the 13th February, 1843, the ratifications whereof were exchanged at London on the 13th day of March in the same year, it was agreed that the high contracting parties should, on requisition made in their name through the medium of their respective agents, deliver up to justice persons who being accused of the crimes of murder, forgery or fraudulent bankruptcy, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other.

“In order to carry the Convention into effect, the British Parliament, on the 22nd August, 1843, passed the Act, 6 and 7 Vic., Cap. 75, in which, after reciting the Convention, it is enacted that in case requisition be made pursuant to the Convention to deliver up to justice any person who being accused of having committed, after the ratification of the Convention, any of the above crimes within the territories and jurisdiction of His Majesty the Emperor of the French, shall be found within the dominions of Her Majesty, it shall be lawful for one of Her Majesty’s Principal Secretaries of State, or in Ireland for the Chief Secretary of the Lord Lieutenant of Ireland, and in any of Her Majesty’s Colonies or Possessions abroad, for the officer administering the Government of any such Colony or Possession, by warrant under his hand and seal, to signify that such requisition has been so made, and to require all Justices of the Peace and other Magistrates and Officers of Justice within their several jurisdictions to govern themselves accordingly, and to aid in apprehending the persons so accused, and committing such persons to goal for the purpose of being delivered up to justice according to the provisions of the said Convention.

“It shall be lawful for one of Her Majesty’s Principal Secretaries of State, or in Ireland for the Chief Secretary of the Lord Lieutenant of Ireland, and in any of Her Majesty’s Colonies or Possessions abroad for the officer administering the Government of any such Colony or Possession, by warrant, to deliver up offenders to the Authorities of France.”

I therefore take the liberty, Mr. Secretary, to beg that you will be so good as to request His Excellency the Governor General, in virtue of the powers conferred on him by the above mentioned Convention, to issue the necessary warrant for the arrest and subsequent extradition of the above mentioned Ernest Sureau Lamirande.

I shall be obliged by your sending me the warrant as soon as possible.

I think it well to inclose herewith the warrant issued by the Civil Tribunal at Poitiers and duly legalized by Her Britannic Majesty’s Consul at Paris. Be good enough, I beg, to return me this document, together with the Governor General’s warrant.

I avail, &c.,

(Signed,)

FRED. GAUTIER,
French Consul General.

(No. 13.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, November 16, 1866.

MY LORD,—I thought it desirable that the Law Officers should be apprized of the language held to you by M. de Moustier in the Lamirande case, as reported in your despatch of the 13th instant; and I have now to acquaint Your Excellency that the Law Officers consider that it is impossible to deny the force of M. de Moustier’s reasoning.

It must indeed be admitted that if the situations were reversed, and the restoration of a French subject, given up under the Extradition Treaty, and about to undergo trial before an English Tribunal, were demanded or requested by the French of the English Govern-

ment, the latter would be constrained to reply that the Executive Government had no power to remove a prisoner from the judicial authority to which he had been submitted, or in any way to stop the course of justice with respect to him, by whatever error on the part of the French Government he might originally have been placed within the jurisdiction of the Court.

Her Majesty's Government, looking at the question in this light, could not consider the refusal of the French Government to give up M. Lamirande as affording any ground whatever of offence to this country.

Your Excellency will understand that I make this communication for your private information only.

I am, &c.,

(Signed,) STANLEY.

(No. 14.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, November 16, 1866.

MY LORD,—Thinking it desirable that Your Excellency should be informed as to what is considered in this country a legal definition of the crime of forgery, I have asked the Law Officers to supply me with it, and also to state the bearing of that definition on the words as used in the Extradition Treaty with France, and on the statements of the French Consul General in Canada and of the French Police Officer Melin, of which I sent you copies in my despatch of yesterday, setting forth the crimes of which Lamirande was accused.

I have now to acquaint Your Excellency that I am advised that forgery, by the common law of England, may be defined to be the fraudulently counterfeiting any written document in whole or in part, or altering or adding to it, or making it falsely to appear to be the genuine writing or instrument of some other person, with intent to defraud or prejudice another; and that by one of the Statutes for consolidating the Criminal Law, namely, the 24th and 25th Vic., Cap. 98, a variety of cognate acts are defined and classed under the general head of forgery; and by various special statutes the counterfeiting or falsification of various public acts and other documents is also declared to be forgery.

The term "forgery" in the statute for giving effect to the Extradition Treaty with France would, I am advised, include all the above cases.

But a mere false statement in writing, which does not purport to be the writing of another person, is not forgery; for instance, if a man fraudulently signs the name of A.B., without authority to a bill of exchange it is forgery; but if he fraudulently signs the bill in his own name, "per procuration of A.B.," having no authority, it is only a false statement and a fraud, but not a forgery. So, if a person makes a false entry in a banker's pass-book, as if it were, and purporting to be the banker's entry, with a view to defraud, it is forgery; but if he makes a false entry in his own book, and purporting to be his own entry with the like intent, it is a fraud, but is not a forgery.

According to the opinion of the Court of Queen's Bench, a forgery, to come within the French Extradition Treaty and Statute, must be what would be considered forgery according to the law of England as well as of France; but I am informed that this opinion is rather questionable.

But as regards the question now at issue, it would appear from the statements made in the letter of the French Consul General and in the deposition of the French police officer, that Lamirande was not charged with or guilty of forgery, or counterfeiting the entry of any other person; but that he was charged with embezzlement and with making fraudulent and false entries in his own books, which would not be forgery according to the law of England, within the meaning of the Extradition Statute.

I am, &c.,

(Signed,) STANLEY.

(No. 15.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, November 15, 1866.

MY LORD,—I have thought it desirable to obtain the opinion of the Law Officers on

the question whether the charge made against Lamirande by the French Consul General in Canada, being that of falsifying the books and *bordereau*, if these books are the ledgers of the Bank of France intrusted to his keeping and not M. Lamirande's private accounts, would that bring him within the accusation of forgery, and I have to state to Your Excellency that I am informed that this would not be forgery according to the laws of England.

I am, &c.

(Signed,) STANLEY.

(No. 16.)

Earl Cowley to Lord Stanley (Received, November 21).

PARIS, November 20, 1866.

MY LORD,—I had the honor to receive on the 16th instant your Lordship's despatches of the previous day, and on the 18th instant your despatches of the 16th, all relating to the case of Lamirande.

In execution of your Lordship's several instructions, I wrote a letter to M. de Moustier on the 18th, inclosing a memorandum of the points on which exception could, in the opinion of Her Majesty's Government, be taken with reference to the legality of Lamirande's arrest, and I told his Excellency that I was ready to wait upon him to discuss these matters with him whenever it would suit him to receive me.

A copy of this memorandum is enclosed for your Lordship's information.

His Excellency appointed this afternoon to see me, and I give your Lordship the result of our interview.

M. de Moustier said, that since we had last met he had examined thoroughly with the Minister of Justice the question of the possibility of surrendering Lamirande, now that he was in the hands of justice, and that he could authorize me to inform Her Majesty's Government that it had been decided that, inasmuch as Lamirande had been placed in his present position by the administrative act of the Minister for Foreign Affairs, that Minister could recover him from the hands of justice; provided that he was satisfied of the right of Her Majesty's Government to claim his surrender, and that this recovery might be made now or even after Lamirande's trial, and, if found guilty, after his conviction.

The question then, which he had to consider, was, how far Her Majesty's Government had right on their side, and for this purpose he must decide on the two points raised in my memorandum, and he really had not had sufficient time to examine them; there certainly would not be time to discuss them thoroughly with Her Majesty's Government before the day fixed for Lamirande's trial, the trial, therefore, must proceed. In the meantime the discussion between the two Governments might go on, and he could assure me most positively that he had no other wish than to examine with the utmost impartiality all the bearings of the case, and should Her Majesty's Government satisfy him that the provisions of the treaty of 1843 had not been complied with, no difficulty whatever would be made in surrendering Lamirande, even should he have been convicted in the meantime.

Referring again to the points raised in my memorandum, M. de Moustier observed that as at present advised, he must take exception to the doctrine contained in the first point, that the French Consul General in Canada was not competent to make the demand for Lamirande's extradition. If this were the case, His Excellency said, if this doctrine were to hold good, the treaty would become inoperative in all Her Majesty's Colonies. Moreover, according to French custom, consular agents holding under no diplomatic authority, as was the case in Her Majesty's colonies, were always considered to possess the diplomatic character necessary to enable them to exercise such diplomatic functions as the welfare of French subjects required.

As to the other question whether the crime of which Lamirande was accused amounted to forgery or not, he really was not in a position at this moment to discuss it with me. If he was to trust to those who were more conversant with the subject, he must suppose that there was good reason to believe that it would be shown that Lamirande's acts amounted to forgery according to British law.

I replied that Her Majesty's Government would receive with great satisfaction the assurances which M. de Moustier had given me of his desire to examine this matter with

impartiality, and to surrender Lamirande should it be seen that his extradition had been irregularly obtained. I needed hardly to assure him, on the part of Her Majesty's Government, that there was no desire to shield a man accused as was Lamirande; but they were guardians of a Treaty which had been sanctioned by Parliament, and were bound to bring any infractions of it to the notice of the French Government. As yet I had been instructed to do no more. The communications which had passed between the two Governments might be considered to have amounted to an exchange of opinions only, and I would lose no time in informing Your Lordship of the intentions of the Imperial Government, and of asking for further instructions.

M. de Moustier rejoined that such was the light in which he wished the discussion should be continued, and that it should not be made a question between Government and Government.

I then said that with regard to Lamirande's trial Her Majesty's Government had hoped that it might have been dispensed with, and that Lamirande might, perhaps, have been set at liberty without being formally surrendered to the British Government, under the condition of quitting France forever. M. de Moustier replied that such a course would be impossible; the trial could not be avoided. He was, moreover, of opinion that the facts which must be elicited at the trial, and which were now imperfectly known, would throw light upon the whole subject, and would enable the two Governments to mature their judgments.

It seemed to me that, under the instructions which I have received from Your Lordship, I could not with propriety press the matter further, and I let it drop.

I have, &c.,

(Signed,)

COWLEY.

(Inclosure in No. 16.)

(Memorandum.)

Her Majesty's Government are desirous of submitting the following observations for the consideration of the Imperial Government:—

Her Majesty's Government, while freely admitting that no responsibility attaches to the Imperial Government in the proceedings which have led to the present dilemma cannot but hold the opinion that the French authority in Canada, who set the matter in motion, can hardly stand acquitted of having done so without warrant, and, in fact, in excess of the Treaty engagements between England and France.

For the stipulation of the 1st Article of the Treaty of 1843 expressly provides, that requisitions for extradition shall be made through the medium of a Diplomatic Agent—which a Consul is not—and therefore the application of the French Consul General at Quebec to the Governor General in Canada was one wholly unauthorized by treaty, and should never have been made by the Consul General.

No doubt the application of the Consul General should never have been listened to by the Governor General of Canada, and Her Majesty's Government do not seek to exonerate the Canadian Authorities from the responsibility which belongs to them; but Her Majesty's Government submit that the Imperial Government may fairly be asked, in dealing with this question, to consider that their own Consul General has been party to the error which, in its results, have brought Lamirande within the jurisdiction of the French Tribunals.

Again, the crime of which Lamirande is accused is thus described in the letter of the Consul General to the Provincial Secretary of Quebec: "*Lequel*" (speaking of Lamirande) "*s'est rendu coupable non seulement d'un vol de 700,000 francs au préjudice de la succursale de la Banque de France à Poitiers, mais aussi du crime de faux en écriture en falsifiant ses livres et son bordereau de situation, et faisant ainsi figurer comme présente dans sa caisse la somme volée de 700,000 francs, crime prévu par les dispositions du Traité d'Extradition conclu entre la France et l'Angleterre, en Février, 1843.*"

It would appear then, by this letter, that the offence with which Lamirande is charged is one of embezzlement, and making false entries in his books, and it is supposed that the Consul General assumes that these offences come within the legal meaning of the term "forgery," the only crime mentioned in the Treaty of 1843, at all applicable to the present case.

It may be as well to state here the definition of "forgery," according to the Common Law of England.

Forgery, by the Common Law of England, may be defined to be the fraudulently counterfeiting any written document, in whole or in part, or altering or adding to it, or making it falsely to appear to be the genuine writing, or the statement of some other person, with intent to defraud or prejudice another.

By one of the Statutes for Consolidating the Criminal Law, a variety of cognate acts are defined and classed under the head of forgery, and by various special statutes the counterfeiting or falsification of various public acts and other documents is also declared to be forgery. But a mere false statement in writing, which does not purport to be the writing of another person, is not forgery.

As regards the question at issue, it does not appear Lamirande is charged with counterfeiting the entry of any other person, which would be forgery, but that he is charged, as has been stated above, with embezzlement, and with making fraudulent entries into his own books, which would not be forgery according to the Law of England.

(No. 17.)

Earl Cowley to Lord Stanley (Received, November 24).

PARIS, November 23, 1866.

MY LORD,—The trial of Lamirande is fixed for Monday, the 3rd December.

Your Lordship may like to know more precisely of what he is accused.

Lamirande was Cashier to the Branch of the Bank of France, established at Poitiers. As such he had considerable sums to receive and to pay, and consequently a deposit of a large amount was continually in his hands. The gold is tied up in bags containing a certain number of Napoleons, which are liable to be visited from time to time by inspectors, who open them and see that their contents are correct; but these inspectors generally content themselves by opening one or two bags, and by weighing some of the others. Lamirande seems to have been in the habit of taking a few Napoleons at a time from some of these bags, which he took care should never come into circulation, giving them the proper weight by the addition of lead, and placing them where there would be the least chance of their being opened. His books at the same time were kept as if the proper amount of money was in his hands. Something having occurred to excite suspicion, Lamirande determined to abscond, taking with him a large sum of money in addition to those already stolen.

I have, &c.,

(Signed,) COWLEY.

(No. 18.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, November 28, 1866.

MY LORD,—As in any discussion with the French Government, which may hereafter take place on the subject of M. Lamirande's case, much may turn on the precise nature of the charge against him, and of the evidence that may be adduced in support of it, I think it desirable that your Excellency should employ some competent person to watch the trial and to report fully upon it; taking care, however, in doing so not to appear to manifest any doubt as to the propriety of the manner in which the proceedings are conducted.

I am, &c.,

(Signed,) STANLEY.

(No. 19.)

Earl Cowley to Lord Stanley (Received, December 3).

PARIS, December 2, 1866.

MY LORD,—In compliance with the instructions contained in your Lordship's despatch of the 28th ultimo, I have desired M. Treite to proceed to Poitiers to be present at

the trial of Lamirande, and to report to me full particulars for your Lordship's future information.

I have cautioned M. Treite not to express any opinion upon the proceedings at the trial.

I have, &c.

(Signed,) COWLEY.

(No. 20.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, December 4, 1866.

MY LORD,—Her Majesty's Government have had under their consideration your Excellency's despatch of the 20th ultimo, inclosing a copy of a memorandum which you had communicated to the French Government, founded upon the instructions and observations contained in my despatches in regard to the pending trial of M. Lamirande, and the question of his surrender to the British Government.

Her Majesty's Government are glad to receive the assurance of the French Government, as reported in your Excellency's despatch, that the trial and its results, if such result should be a conviction, will not bar the surrender of M. Lamirande.

Her Majesty's Government will await, though not without anxiety, the decision of the French Government on the representations made to them; and, in the meanwhile, they are quite content that the discussion on the subject should be carried on in the confidential form in which they have hitherto been conducted.

In conclusion, I have to express to your Excellency my approval of your language to M. de Moustier, as reported in your despatch above referred to.

I am, &c.,

(Signed,) STANLEY.

(No. 21.)

Earl Cowley to Lord Stanley (Received, December 7).

PARIS, December 6, 1866.

MY LORD,—M. Treite returned to Paris this morning from attending the trial of Lamirande. I had the honor to inform your Lordship by telegraph that Lamirande had been found guilty of forgery (*faux*), and sentenced to ten years' reclusion. He has appealed in Cassation, and the whole question will be gone into before that Court.

M. Treite will furnish me with a full report of the proceedings on the trial, but it cannot be ready for a few days. I reserve all remarks until I have sent it to your Lordship.

I will only observe, that the punishment of reclusion is more severe than imprisonment, and carries with it the penalty of the loss of all civil rights.

I have, &c.,

(Signed,) COWLEY.

(No. 22.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, December 7, 1866.

MY LORD,—It is stated in a daily paper that a few weeks since a criminal, whose capture or surrender had been improperly obtained in Switzerland, was, after conviction and sentence in France, sent back to Switzerland by order of the Imperial Government, on the ground of the antecedent irregularity.

I have to instruct your Excellency to make immediate inquiry into this matter, and if the statement is correct, you will not fail to call M. de Moustier's attention to it, as furnishing a strong precedent for giving up M. Lamirande.

I am, &c.,

(Signed,) STANLEY.

(No. 23.)

Earl Cowley to Lord Stanley (Received, December 14).

(Extract.)

PARIS, December 11, 1866.

I have the honor to enclose, herewith, copy of a letter from M. Treite, transmitting a *compte-rendu* of the trial of Lamirande, and containing observations upon the proceedings. This letter does not throw much light upon the matter.

The case is certainly a curious one. Lamirande was arraigned in the *acte d'accusation* for having stolen 700,000 francs from the Bank of France, of which he was the Cashier at Poitiers, and having concealed this robbery by means of false accounts rendered to his superiors. At the trial the charge of theft was abandoned, and Lamirande was tried on the charge of "*faux*." Probably this was done with a view of bringing the crime within the meaning of the Extradition Treaty of 1843.

Your Lordship will observe that the court declared itself incompetent to decide the question whether the extradition of Lamirande was accomplished according to the stipulations of that Treaty. The legality of this decision will be disputed before the Court of Cassation.

(Inclosure 1 in No. 23.)

M. Treite to Earl Cowley.

(Translation.)

PARIS, November 17, 1866.

MY LORD,—Agreeably with the desire expressed to me by Your Excellency, I have made very careful research in works of reference and writers, in order to ascertain if I could find there any mention of a case where a government, after the surrender of a criminal, had demanded his rendition because the legal formalities had not been observed in the arrest or extradition.

I have found no trace of such a case, and I do not think there is one, for such a claim would be contrary to the rules which are observed in regard to the independence of different States.

In fact, the State to which a criminal has been surrendered cannot be competent to appreciate the legal procedure of a foreign code, and assuredly cannot subordinate its own criminal jurisdiction to the observance of legal forms in another country.

Extradition is an act between Governments; that which has surrendered a criminal without regard to the precautionary forms of law incurs a responsibility, or indeed casts it upon those of its agents who have broken the law, and even punishes them for it; but it has no claim whatever to make on this account, to the Government to whom the criminal has been surrendered, unless the extradition has been brought about by falsehood and fraudulent manœuvres.

This latter Government exercises its rights of sovereignty by retaining the criminal who has infringed the law of the land.

Moreover, as soon as the convict has returned into the territory, he belongs no longer to the Government but to the judicial power, whose action is independent of the executive. The executive power has not the right of suspending the course of justice with reference to the individual prosecuted; it can only grant pardon after conviction, for the right of pardoning an individual before trial is denied to the Prince.

On applying these principles to the case of Lamirande, which I only know through the newspaper reports, I think that the English Government is not in a position to demand the restoration of this man.

The French Government would most certainly refuse it, for without violating the right of the judicial power, it cannot even dispose of an accused person who belongs to justice alone.

Having seen no official document, I am ignorant of the complications which may lurk in the case of Lamirande, but I hasten to inform Your Excellency that Lamirande will shortly appear before the Court of Poitiers.

Before the Court of Assize, the counsel for the defence will probably bring forward some circumstances and raise some difficulties relative to the arrest and the extradition of the accused.

The English Government might be interested in learning and forming a judgment on these points. Would it not be advisable to have a lawyer present at the trial, instructed to watch the proceedings and to examine their phases and legal bearing? This is an idea which I have taken the liberty of submitting to Your Excellency, begging you to accept, &c.

(Signed,) TREITE.

(Translation.)

PARIS, December 10, 1866.

MY LORD,—Agreeably with the desire expressed by your Excellency, I went to Poitiers to attend the trial of Lamirande, who has been brought back from Canada and given up to the French Government.

These proceedings, it was generally said, would present most interesting discussions in regard to the international right of extradition.

Indeed, the defenders of the accused had prepared quite a system of attack upon the extradition of Lamirande, both as regards the facts and the law of the case.

They had to show that the circumstances attending this extradition constituted acts of deceit, of fraud, of violence, and of outrages upon the English laws. They were above all to argue on the public declaration of Mr. Drummond, Judge of the Court of Queen's Bench, who had, on the 25th of August, 1866, declared the extradition to be illegal; in short, it was to be pleaded that Lamirande had been stolen from the English Government. The expression, moreover, was made use of in Court,—your Excellency will find it in the report of the proceeding which I have the honor to enclose herewith. Public attention was also much excited, but it has been altogether disappointed.

In fact the Avocat Général, in virtue of instructions without doubt emanating from the Ministry of Justice, opposed the admission of the motions submitted by the defenders on the question of extradition. These motions are very explicit, the Avocat Général maintained that the question of extradition could not be discussed before the judicial authority, since the executive authority had declared that the extradition was legal and regular; that extradition is the business of a Prince in his international relations; relations which cannot in any case fall within the cognizance of the judicial authority, etc., etc.

In spite of the efforts of the defence, the view upheld by the Avocat Général has been ratified by a decision of the Court of Assize. This decision appears to me to be well founded in law. His view is, besides, in agreement with the legal opinion which I had the honor to submit to your Excellency on the 17th of November last, respecting the extradition of Lamirande.

It must, however, be said that the principles laid down by the Lamirande decision (by which name it always will be known) are not unanimously accepted in jurisprudence and in the tenets of writers. But the Court of Cassation is about to be called upon to lay down a definite rule on this matter, which is so obscure, since Lamirande, it is said, has appealed to the Court of Cassation, as has been announced.

Thus the appearance of Lamirande in a court of justice has not advanced the question of extradition between the English and French Governments, with the exception that the jury has declared Lamirande guilty of forgery agreeably to the heads of accusation transcribed in the indictment in Nos. 3, 4, 5 and 6, and which I have reported in manuscript, the newspapers not having reproduced them.

We must bow to the verdict of the jury, although there may be a difference of opinion on the question whether the false statements made by Lamirande legally constituted the French crime of falsification (*faux*), and especially the English crime of falsification called "forgery."

On reading the discussions, your Excellency will see that the President of the Court of Assize asked the accused whether, although theft and abuse of confidence might not be within the scope of the Extradition Treaty of 1843, he would consent to be tried on these two charges. The accused probably hoped for an acquittal on the charge of forgery; he refused to stand his trial on the two other charges, and the prosecution only relied on the crime of forgery.

In my opinion, the question of the President had a political bearing, for if the accused had consented to be tried on the counts of theft and abuse of confidence, he would have

renounced *ipso facto* his advantage arising from the Extradition Treaty, as the Avocat Général pointed out. The dispute would naturally have fallen to the ground, for the English Government could no longer have to occupy itself with the reclamation of an individual who had renounced the advantage arising from the British law.

The declaration of Judge Drummond not having been read at the trial, could not be published by the French newspapers. Such a publication might have exposed them to a prosecution for inaccuracy in a report of judicial proceedings. Foreign papers have published extracts from this declaration. On the first page of the *Réport*, Your Excellency will find an analysis of that declaration printed in a Belgian paper.

Accept, &c.,

(Signed,)

TREITE.

Inclosure 2 in No. 23.

(Translation.)

REPORT OF THE TRIAL OF M. LAMIRANDE.

Analysis of the Declaration of Judge Drummond, published by a Belgian paper.

This document not having been read during the sittings of the Lamirande trial, has not been published by the French papers. By printing it they would have rendered themselves liable to prosecution for inaccuracy in the judicial reports.

"We will here recall that somewhat strange document of Judge Drummond of Montreal, which, in fact, sums up the whole question of the extradition.

"Indeed, in France we should be at a loss to give a name to this document, which corresponds neither in form nor in substance with our idea of a judicial sentence.

"In the first place, the Honorable Canadian Judge acknowledges that he has no further orders to give, it being impossible to bring before him the accused, or rather the petitioner, as he calls him in deferential language, he being on the high seas, carried off by one of the most audacious and, up to this time, happy enterprises against justice which have ever been heard of in Canada.

"Notwithstanding this somewhat candid declaration, the Honorable Judge Drummond launches forth into a long dissertation better suited to pleadings or polemics than to the impartiality of a judicial document.

"What results from this harangue is the rather impassioned opinion of the Judge, maintaining that the extradition would never have been granted by him if the case had remained intact, and that for several reasons, which he enumerates very concisely, viz.:—

"1. That the French Consul General at Montreal was not qualified to demand the Extradition, not being an accredited Diplomatic Agent, as required by the Treaty of 1843.

"2. Because the original instrument of indictment against the accused was not authenticated; that in lieu of the original and regular document only a copy thereof, translated by some unknown individual, was produced (it is known that at New York the warrant was abstracted from the rest of the papers by one of Lamirande's advocates, to whom this document had to be communicated).

"3. Because the act imputed to the accused, Lamirande, does not contain the imputation of any of the acts characterized as crimes by the English laws, and which would authorize his extradition according to the terms of the Treaty.

"In fact, in England, the crime of forgery only consists in the deceitful fabrication of a document intended to be what it is not, not in the fabrication of a document intended to be what it is; in other and clearer terms, a lie in writing is not a forgery.

"Then Judge Drummond recollects that he ordered the petitioner (Lamirande) to be brought before him, and adds:—

"The answer of the keeper of the prison to my writ of *habeas corpus*, was that he had handed over the prisoner to Edme Justin Melin, Inspector of Police at Paris, on the night of the 24th instant, at midnight, by virtue of an order signed by the Deputy Sheriff, upon a document signed by the Governor General.

"It appears, he continues, that the petitioner, thus delivered to a French Agent of Police, is now on his way to France, although his extradition was illegally demanded, although he was accused of none of the crimes for which he could have been legally delivered up, and notwithstanding that I was positively informed that His Excellency the

Governor General had promised, as he was bound to do in honor and justice, to give the petitioner an opportunity of having his petition decided by the first tribunal of the land before ordering his extradition.'

"After these imputations levelled by a magistrate against the Governor of the country, one can understand the polemical violence of the American press. It is true that the Canadian magistrate adds, that if there is a false date in the Governor General's warrant, he sees therein a proof that the good faith of the Governor has been abused."

REPORT of the Trial of Lamirande, taken from the "*Gazette des Tribunaux*" and the Journal "*Le Droit*."

COURT OF CRIMINAL JUSTICE.—ASSIZES OF VIENNE.

(Specially drawn up for the *Gazette des Tribunaux*.)

Under the Presidency of M. Aubugeois de la Ville du Bost, Judge of the Imperial Court of Poitiers.

Sitting of December 3.

In re Lamirande,—Fraudulent Abstraction,—Embezzlement of 704,000 francs from the Branch Bank of France at Poitiers,—Forgery in Bank accounts.

The name of Lamirande has for some months acquired such a notoriety that it is sufficient to mention it to recall all the facts with which it is connected. Cashier of the Branch Bank of France at Poitiers, he disappears, leaving a considerable deficit in his cash. He flies—he crosses the seas: he first takes refuge in England; then in America. French police agents follow on his track, have him arrested; but before he is delivered up to them disputes arise between the different authorities of America, England and France upon the question of extradition, and it is only lately that they have been settled, and that Lamirande has been handed over to the justice of his country. Such is the summary, much abridged, of the long preliminaries of this serious affair, but which it appears to us ought to be sufficient, now that it is coming to trial, to bring it to the notice of the public.

A large concourse of people thronged the approaches of the Palace of Justice in the hope of being present during this important trial. It could not be otherwise in the town where the accused has been so long known, and where, whilst he acquired a position of confidence, he was enabled to gain the esteem of a large number of its inhabitants.

The Magistrate's Bench was occupied by M. Gast, first Advocate General. The Procureur Général Damay was present.

Maitre Lachaud was charged with the defence of Lamirande, who had also as counsel, M. Lepetit, formerly senior advocate of the bar at Poitiers.

Upon the accused being introduced into Court, a quick movement of curiosity was apparent on all sides; all heads were raised; all eyes were directed towards him, and a long period elapsed before the first burst of public curiosity subsided.

Lamirande, whose carriage and demeanor announced him to be a man of superior breeding, is of middle height, he has brown hair, a high forehead, a pale complexion; his regular features announce shrewdness and vivacity. Those of the inhabitants of Poitiers who knew him, say that they can hardly recognize him, he is so changed and emaciated; nevertheless, he is not depressed and he seems not to have lost any of his energy.

After the jury had taken their places, and the identity of the prisoner had been proved, the warrant of arrest and the act of indictment were read by the clerk of the Court; this last document is couched in these terms:—

"On Monday, March 12, 1866, M. Bailly, Director of the Branch Bank of France, at Poitiers, informed Lamirande, Cashier of the same establishment, that a million in gold would have to be immediately forwarded to the Branch at Angoulême, and that the day after, Tuesday, 500,000 francs in silver would have to be sent to the same place. Lamirande made, during the day, the necessary preparations for the despatch of a million in gold. In the evening he clandestinely left his post, took the railway, and reached the frontier. Before starting he had left a letter addressed to the Director, M. Bailly, in which he stated that he was unexpectedly obliged to go to Châtelleraut; that he had left his keys with M. Quérieux, Chief Accountant, and that he would return soon enough to make up his cash account. At the same time he had written to M. Quérieux, that being

obliged to leave for Châtellerault, he begged him to act as cashier on the morrow, and to superintend the despatch of the money by the attendants of the Bank; he added that he would arrive in time to draw up the daily report. This letter was taken by a messenger to M. Quérioux, with the keys which opened the lower compartments of the current cash (*caisse courante*). Lamirande's sudden departure could not at first appear suspicious, for he had taken the precaution of telling several people the falsehood that his nephew was very ill at Châtellerault, and that the state of the child caused him great anxiety. On the 13th of March, the employés of the bank proceeded to remove the 500,000 francs which had to be sent to Angoulême. Sacks were ready; they were filled to the number of 50, by taking from the cellars 500 bags of 1,000 francs each, and the 50 sacks, which ought each to have weighed 50 kilogrammes, were placed upon a truck, accompanied by a clerk and an attendant, and taken to the Bureau des Messageries. There they were weighed, and it was immediately found out that most of them were under weight, showing a deficit of about 2,000 francs per sack. The director was informed of this, he immediately had the whole taken back to the bank, opened the sacks, took out the money bags and counted them, 310 of them were found to be uniformly deficient of 200 francs, within about a five-franc piece.

One of the Inspectors (*censeurs*), M. Grétry, and one of the Managers, M. Pavie, were informed of this; they went down into the cellar, from which the deficient bags had been taken, and discovered that the same difference existed in a great many more bags of money. They discovered, besides, that many bags which ought to have held each 10,000 francs in gold of 20-franc pieces, only contained in the same bulk 2-franc 50-centime pieces. In a word, it was proved by the examination which took place on the 13th of March and the following days, that the sums abstracted from the cellar amounted to 219,000 francs.

"Lamirande had not, however, sent to Mr. Quérioux the key which opened the upper compartment of the current cash; now this compartment ought to have contained a very considerable sum, whether in notes or in gold. A workman, sent for from Paris, arrived the next day, together with a Bank Inspector, and opened the compartment. All the 1000 franc notes had disappeared; there only remained 400 notes of 100 francs, of which the bundle had no doubt appeared too bulky to be carried off. It was, moreover, found out that there were two bags apparently filled with gold and labelled 20,000 francs, but it was at once perceived that the rouleaux of gold pieces had been replaced, at the bottom of the bags, by paper rolls of 2-franc 50-centime pieces, wrapped first in white and then in blue paper, so as to equalize the weight to within about a centigramme with that of a sum of 20,000 francs in gold. An exact and minute investigation proved that the embezzlements effected from the cash amounted to the sum 485,000 francs.

"Hence, from the cellar and from the cash-box, in specie or in notes, a sum total of 704,000 francs had been abstracted to the loss of the bank.

"In face of these discoveries no doubt was possible; the flight of the cashier was the proof of his guilt.

It was, moreover, manifest that the cashier alone could have perpetrated this immense spoliation. In the first place Lamirande had the exclusive management of the current cash, which had been exhausted in the course of the day of March 12; Secondly, he alone could have effected either the abstraction from a great number of bags of silver, or the removal of the bags of gold. It was easy for him to abstract them whilst alone in the cellar, where he superintended the depositing and the despatching of moneys, by taking advantage of the absence of the director and the employés charged with the conveyance of the bags.

"Lamirande's flight was suddenly precipitated by the unexpected order to send 500,000 francs to Angoulême, for it became clear to him that the despatch of so considerable a sum, trenching upon the reserves of silver deposited in the cellar, would necessarily include the deficient bags, and lead to the discovery of the fraud.

"Lamirande is not answerable to Justice for the enormous abstractions of which he is guilty alone. His duties as Cashier require him to remit daily to the Board a return in which he certified to the state of the different coffers of the Bank, by showing, according to their value, the sums and effects that were there deposited. He has committed a daily series of forgeries by announcing each day in his return a state of affairs which had ceased

to be correct, owing to his own embezzlement. The very day of his departure he still transmitted to his director a return of the state of the Bank, certified and signed by himself, in which he falsely attested that the sum total in the coffers of the Bank amounted to the sum of 11,443,000 francs, whilst in reality, through his abstractions, the amount in hand was diminished by the 704,000 francs, of which he had possessed himself.

"Lamirande has committed forgeries in banking accounts (*faux en écriture de banque*), and he has knowingly made use of false papers by remitting returns which concealed the fraudulent abstractions and embezzlements of which he is guilty.

"Consequently Lamirande is accused":—

"1. Of having, at Poitiers, within less than ten years, fraudulently abstracted divers sums in gold or silver coin from the safe or cellar of the Branch Bank of France, to the loss of that establishment.

"Of having committed these fraudulent abstractions, under this circumstance, that he was then the salaried cashier, or servant at wages, of the said Bank of France.

"2. Of having, at Poitiers, within less than ten years, and especially on the 12th of March, 1866, embezzled or made away with, to the prejudice of the Bank of France, the proprietors thereof, funds and notes placed in the current cash of the Branch at Poitiers, which had only been remitted and confided to him for purposes of deposit and demand, on the understanding of his returning, or producing, or making some appointed employment or use of them. Of having committed the above specified embezzlements, under this circumstance, that he was then cashier or paid clerk of the said Bank of France.

"3. Of having, at Poitiers, on March 12, 1866, in the return signed by him, which it was his duty to draw up and certify each day as Cashier of the Branch Bank of France, for the purpose of showing the amount in hand at the said branch, fraudulently inserted the false declaration that the amount in hand consisted that day of 11,443,556 francs and 84 centimes, whilst in reality it was less by all the sums abstracted or embezzled by him, and of having thus fraudulently changed the declaration and facts which it was the object of this report to receive and verify.

"4. Of having the same day, at the same place, made use of this fictitious paper, knowing that it was fictitious, by remitting it to the Director of the Branch Bank of France at Poitiers, in order to show the state of the cash at that establishment, on the 12th of March, 1866.

"5. Of having, at Poitiers, within less than ten years, and anterior to the 12th of March, 1866, in several returns signed by him, which it was his duty to draw up and certify each day as Cashier of the Branch Bank of France, in order to show the cash in hand at the said branch, fraudulently inserted the false declaration that the cash in hand amounted to a sum larger than that which existed in reality; which amount was less than the figures recorded by all the sums abstracted or embezzled by him, and of having thus fraudulently changed the declarations and facts which it was the object of this report to receive and verify.

"6. Of having, at the same period, and at the same place, made use of these fictitious papers, knowing that they were fictitious, by remitting them to the Director of the Branch Bank of France at Poitiers, in order to establish the state of the cash at that establishment on the days indicated.

"Given at the bar of the Imperial Court of Poitiers, the 23rd of September, 1866.

(Signed,)

"CAMOIN DE VENCE.

"*Avocat Général.*"

During the reading of the indictment, which was listened to by the audience in the most profound silence, the accused appeared to be deeply moved; he almost always kept his head down, resting on his hand, frequently passing his handkerchief over his eyes and forehead.

It ought to be stated that on the jury being empanelled, Maître Lachaud, in the name of Lamirande, requested that note might be taken, so that his presence, and that of the accused at this empanelling, should not in any way prejudice the motions in exception (*conclusions exceptionnelles*) which he might choose to submit before entering upon the actual proceedings. Note was taken of this reservation, and the President ordered that it should be mentioned in the minutes of proceedings.

The President then recapitulated to the prisoner the different heads of accusation brought against him, to the number of six, fraudulent abstractions and forgeries. The Prisoner made no observation.

Maitre Bourbeau, Advocate, came forward, attended by Maitre Pinchot, Attorney, and read motions to the effect that the Bank of France should be allowed to appear as prosecutor, and that record should be made of their reservations to fix, during the course of the debates, such damages as they should think fit.

The President—It is for the first Advocate General to speak.

Maitre Lachaud—Pardon me, M. le Président, I request permission to speak in order to submit the following motions:—

Seeing, that it is established as a principle, that Courts of Assize are competent to judge whether the extradition of accused persons has been conducted in a regular manner, or whether, on the contrary, it has been the result of fraud or of violence; that this principle has been recognized by the Court of Cassation, especially in its Decree of the 9th of May, 1845;

In point:—

Seeing, that Lamirande, Cashier of the Branch Bank of France at Poitiers, sent by order of the Court of Indictment, before the Court of Assize of Vienne, on several accusations, took refuge in Canada (an English possession);

That a demand for his extradition had been made by virtue of the Treaty concluded between Great Britain and France, on the 18th—21st of March, 1843.

That this Treaty, which indicates the forms necessary to be observed in the two countries in cases of extradition, reads textually, Article 1, Section 2, in so far as concerns Great Britain:—

Consequently, on the part of the British Government, the surrender shall be made only on the report of a Judge or Magistrate duly authorized to take cognizance of the acts charged against the fugitive in the warrant of arrest or other judicial document likewise issued by a Judge or competent Magistrate, in France, and likewise clearly setting forth the acts;

Seeing, that it results that in order that the English Government may grant the extradition, it is necessary before all that a competent Judge should have declared its legality, that consequently it is not only an administrative but also a judicial decision;

Seeing, that Lamirande having, in the first instance, been brought before Mr. Bréhaut, Justice of the Peace, the latter adjudged the surrender, but that almost immediately that decision was attacked before the Superior Judge of Queen's Bench, Mr. Drummond, and that from that time a regular appeal was lodged against the decision;

Seeing, that Judge Drummond heard the case on the 24th of August, 1866, that all parties appeared through their respective representatives, that the demand for extradition was supported, opposed and discussed;

That at that stage, after a long sitting, and when the trial had been accepted by all, on the request of M. Pominville, Counsel for the Bank of France, who was desirous of making some further observations, Judge Drummond, when about to give judgment, in consideration of the lateness of the hour (7 o'clock in the evening), postponed the remainder of the hearing and his decision till the next day, the 25th;

Seeing, that during the evening of the 24th of August, before the decision of the Judge, who alone was qualified to give a definitive decision, police agents dragged Lamirande forcibly from prison, that he was brought to France, and notwithstanding his protests handed over to the French police;

Seeing, that all these facts cannot be contested, that they are proved by the judgment delivered by Mr. Drummond on the 28th of August, 1866;

That it results moreover, from this decision, that Mr. Drummond has declared that there were no grounds for an extradition, for several reasons given in his judgment, and founded either on the form of the demand, or on the main issue, in that the acts cited constituted none of the crimes for which extradition could be granted;

Seeing, that at present the Court of Assize is called upon to judge whether the extradition of Lamirande can be declared legal;

That it is evident it could not be so, since the Judge before whom the case had been

duly brought by all parties, and whose duty it was to decide definitively upon it, has declared that there was no reason for granting it;

That an act of violence, for which England cannot fail to call her agents to account, ought not to prevail over a judicial decision, and thus make force and subornation superior to right;

That whatever may be the faults and the crimes of which Lamirande is accused, they can form no reason for violating the most ordinary rules of justice; that the aim of International Treaties of Extradition is not to give advantage to accused persons, but above all, to respond to the highest interests of the reciprocal relations and liberty of nations;

Seeing, that it is in vain to object that Lamirande was handed over to the French Agents of Police by virtue of an order signed on the 23rd of August, 1866, by the Governor of Canada; that it results from the sentence delivered by Mr. Drummond, that the date borne by this order is not the real one; that it was given after the 23rd of August; that the Governor's signature could only have been obtained by underhand means;

Seeing, moreover, that the very terms of the Treaty of 1843 do not permit the Governor General to deliver up an accused person for extradition before the judicial decision has been pronounced by the proper Judge; that on the 24th of August the case came before Judge Drummond; that the British Government, represented by Mr. Ramsay, Queen's Counsel; the Bank of France, represented by Mr. Pominville, Advocate; Lamirande himself represented by Mr. Doutre, Advocate, were heard, and that they argued the question of the legality of the extradition before that Magistrate;

That from that moment until after the decision of Judge Drummond, it was impossible to dispose of Lamirande without violating at once both law and justice;

That it may please the Court, for these reasons and for others which it may think fit to add, to pronounce the extradition null;

And, quite collaterally, seeing that—to suppose an impossibility—the Court should declare itself incompetent to pronounce the extradition null by reason of the diplomatic character of that act, it cannot ignore the fact that the circumstances attending this extradition may be of a nature to render it null; that it would then have to be submitted to the attentive examination of the two Governments of France and Great Britain, and in that case to grant a postponement until it shall have been decided, with all reservations, by those to whom it shall belong.

After the reading of these motions, M. Gast, the *Avocat Général*, immediately asked for permission to speak in order to oppose them:—

Gentlemen, he said, against those motions, we have to bring some interlocutory motions. We come forward to ask the Court not to allow them to be argued. These motions do not take us by surprise. From his first examination the accused asserted that he could not be tried in France.

The prisoner's honorable counsel had informed us of these motions, which are like pleadings, and the object of which is that the Court should declare itself competent to judge of the legality of the extradition, and collaterally grant a postponement.

In order to discuss the competency of this Court in this respect, we will examine the laws relating to extradition, the power of the judicial authority, the rights of the individual delivered up, and the privileges of the French Government.

Penal laws are exclusively territorial, this principle is incontestable. Beyond the frontiers of each state penal laws are paralyzed, and this is the principle behind which fugitive criminals shelter themselves: consequently, these criminals cannot criticise the force of the measures which have been applied to them beyond the limits of our territory.

How could French Magistrates judge of the legality of these acts? They could not do it either from the point of view of French law, nor in judging of foreign laws.

There is another reason still more conclusive, which disposes of the question of competency. The measures taken abroad were at the request of the French Government; and moreover, culpable acts committed abroad are quite indifferent to us, and they are quite beside our judgment.

Lamirande was so well aware of the indictment upon which the warrant for his arrest was founded, that his American advocate has been accused of having stolen that document, and he made no protest when the warrant was served on him.

The Avocat Général asked to what rule of law could recourse be had to support the claim to have Lamirande reconducted to the frontier.

Now we have to ask what are the rights of the individual delivered up? Has he a right to say that in his person have been violated the conventions concluded between France and England? The motions pretend that he has; but was he a party to these conventions? One or the other of these Governments can alone vindicate these rights. As for the individual person given up, from the moment he again sets foot in his country he becomes simply an accused man who has to be tried.

The Avocat Général quoted in his support Dalloz ("Traité International," page 184); "Decree of the Court of Cassation," 1852 (Morin, page 502).

But if acts committed abroad are matters of indifference to French justice, it is otherwise with the foreign Government. If in the extradition there has been fraud or violation of territory, even a *casus belli* may be the result.

Let us suppose that a foreign Government had cause to complain of such a grievance, to whom would it apply for redress? To a Court of Assize? Simply to ask the question is to answer it. The foreign Government will come direct to the French Government to ask for redress; and take notice that this is the only Plaintiff which can be recognized through the medium of his Diplomatic Agents, extradition having no kind of right.

You assert that the Treaty has been violated; but for that you must have the Treaty interpreted. Can the Tribunals do so?

Here is what I read in Dalloz "Traité International," No. 152:—"The interpretation of Diplomatic Treaties is beyond the competency of Tribunals, whether judicial or administrative," &c.

We have now to ask ourselves what the French Government will do if a claim of this nature is preferred. If it finds that there is foundation for the grievances it will go before the Courts, and say through His Excellency the keeper of the seals, "I withdraw that man from your jurisdiction by right of the law of nations, which is superior to the right of individuals."

In fact, the Emperor, possessing the right of making Treaties with foreign nations, has the right of doing all that is necessary for the execution of those Treaties.

Moreover, when the French Government has obtained a surrender, it can go and say to the Jury, "You will only try the accused on the charge of forgery, because we have obtained his surrender only on that charge."

In presence of that intervention alone justice will refrain.

But if, instead of holding this language, Government is silent; if these grievances appear to it without foundation, justice will take its course, recognizing but the legal rules of positive right. Possible consequences have no influence on justice. We place this perhaps rather bold opinion under the ægis of doctrine and jurisprudence.

An individual was prosecuted for forgery and the abduction of a girl under age (1845). He was delivered up from Tuscany only for the crime of forgery. The law Court of Besançon decided that there was no case of forgery, but, on the other hand, that there were very grave suspicions of abduction of a minor.

The Court ordered that the individual should be arrested only for abduction, and that he should only be judged by default. The Procureur Général filed an appeal against this decision, which was reversed in the Court of Cassation in the following terms:—

(Decree, Court of Cassation, 1845.)

The Avocat Général read the Decree and Dalloz' observations:—

"The indictment may be in violation of the Treaty, but the law takes its course; those are questions to be discussed between Government and Government."

This doctrine, a little too absolute perhaps, is contested by two decisions which I am going to read to you; and from which it follows that if an extradition has taken place without the intervention of either of the two Governments, the Law Courts would have the right of asking whether the Government recognized that proceeding and considered it regular. That, Gentlemen, is the only reservation to be made. That, according to our opinion, is the doctrine which results from the only two decisions which can be brought against us. You shall judge for yourselves.

The Advocate General then read an account of the Dermenon trial (Dalloz "Traité International," page 597).

Do you not see in those facts a confirmation of the doctrine which we just now explained to you. In that case the Government had certainly nothing whatever to do with the extradition of the accused, and it was on that account that the Law Courts appealed to the Government and asked if whether it recognized the measures which had been taken.

The Avocat Général quoted a Decree of the Court of Assize of Ariège of the 17th February, 1845 (Laugé case).

M. Lachaud—That is the decree which I refer to in my motions; it is of the 9th of May, 1845.

The Avocat-Général, after having read that decree, drew from it the same results as he did from the preceding document. The Sieur Laugé, ex-officiating priest, prosecuted for attempted rape, fled for refuge into the Val d'Andorre; he had been arrested by a French Justice of the Peace, under the authority of the Syndic of the Republic of Andorre. The *Cour Royale* ordered a postponement to find out whether that arrest was recognized by the Government, which had taken no part in it. The Court of Cassation, in consideration of the suzerain rights of France over the small neutral territory of Andorre, decided that the arrest was legal.

That point settled, if, instead of remaining inactive, Government were to say to you we have obtained the extradition of that man and assume the responsibility thereof, the law must take its course and is not to ask whether the extradition proceedings were in conformity with Treaties, and it cannot even allow any debate on that subject, which is not within its province.

We have not received any instructions to follow the Counsel for the defence in regard to those numerous facts which they have enumerated to us to our great surprise, and which we should doubtless have no difficulty in answering if such were our business. But for us there is something that overrides all, a prerogative of the Government with which it is not for us to meddle.

The first Avocat-Général read several official documents, proving that the French Government took an active and immediate part in obtaining the extradition of Lamirande; and, amongst others, a letter from His Excellency the Keeper of the Seals.

In that letter, said the Avocat-Général, the part communicating the facts is purely voluntary as far as the law is concerned; but what must be considered above all is the Governmental act claiming for the French Government the responsibility of the extradition as against foreign governments.

We should have finished if we were not bound, on account of that letter, to remind you that that the Keeper of the Seals has declared that Lamirande should only be tried on the charge of forgery, unless he accept of his own free will the decision of the Jury on the charges of breach of trust and theft.

This would seem to put us in contradiction with ourselves, since we maintained that the person surrendered in extradition could have no rights whatever to appeal to. That is a form of respect towards the foreign government which only allowed the extradition of the accused on this charge of forgery; but the consent of the accused may do away with that prohibition, founded on respect for international rights.

The Advocate-General quoted the decrees of 1851 (*Virmaitre decree*); of 1852 (*Darreau decree*), and of 1865 (——— *decree*); decrees which decide that measures of extradition are beyond all control of the judicial authorities.

The motions are therefore not admissible, and it is for the Court to declare its incompetency, and to order that no further proceedings be taken thereon.

The President—Maitre Lachaud, it is for you to speak.

Maitre Lachaud.—Gentlemen of the Court, the motions which I have drawn up are not the work of Lamirande, they are the work of his Counsel. His Counsel decided to submit them to you, because they thought that though the defendant may be unworthy, though his crime may be odious, yet that behind him there is the law. Now, when the law is scandalously violated, I have the right to complain and I do complain. The man whom I do come here to defend has been stolen from England.

The President—Maitre Lachaud, I cannot let that word pass. You are arguing not for jury, but for the Court, and upon the question of competency only. Please to recollect this.

M. Lachaud—I have not forgotten it, M. le Président. I said that this man had been stolen from England, because I have there a document which proves it, a decision of an English Judge, which I will not read out of deference to the Court, but which nevertheless exists, and proves to me, as it will do to all, when it becomes known, the truth of what I have advanced. I shall say no more on this point, and I hasten to answer the *Avocat Général*.

The Counsel for the defence then read various Decrees of Cassation, which, refuting those pointed out by the *Avocat Général*, lay down the principle, he said, that the accused always has the right of taking exceptions before the Court of Assize. Those decrees, added the Counsel, are corroborated by the opinion of M. Faustin Hélie, who thinks that the exceptions may have regard either to the legality of the Act of Extradition, or to the restrictive conditions of the Treaty which binds the two Governments. M. Faustin Hélie maintained that in this matter the Court of Assize has a discretionary power; he acknowledges completely my right of objection. Only, as he foresees, that there may possibly be grounds for diplomatic discussion, he says that in certain cases it may be necessary to suspend the proceedings. And since M. Faustin Hélie never touches on a subject without exhausting it, he adds, that in granting the right of objection, the exception taken must be important, and of such a nature as to suspend judgment on the main points.

I am afraid that Lamirande is only looked upon as the criminal, as a man who inspires little sympathy. What has the individual to do with the question? Forget the man; instead of a crime of cupidity, to-morrow you may have to try a crime of passion, and the position of the *Avocat-Général* can no longer be maintained. What would it be then if a political trial were in question?

I do not wish to press my argument any further; but do not forget, gentlemen, that in this matter everything is important; a neighbouring people, a great people, are at this moment weighing our words; they should not find them falling short of that respect with which they are accustomed to surround those two great bases of society, the liberty of all, and the law for all. I persist in my motions.

Maître Bourbeau, Advocate for the prosecution, declares that he took the side of the Law Officers, and rejects the motions with regard to annulling the extradition, and with regard to the adjournment of the trial.

Maître Lepetit, one of the Counsel for the Defence, replied, and in a warm and animated argument grounded on the opinion of M. M. Dalloz and Faustin Hélie, and on the doctrine of the Decree of the Court of Cassation of 1845, maintained that the Court of Assize is competent to entertain the exception as regards the nullity of the extradition, not in the sense that the law would have the right to criticise diplomatic acts, but in the sense that it may inquire whether the forms laid down by international conventions have been observed, in other words, whether the law has been imposed upon.

The Court retired into the Council Chamber, to deliberate on the point.

At half-past three the sitting was resumed.

The President pronounced the decision, couched in the following terms:—

"Seeing, that by a Decree of the Imperial Court of Poitiers, Chamber of Indictments, dated the 29th May, 1866, the *Sieur Sureau*, called Lamirande, has been sent before the Vienne Court of Assize, under the triple accusation of aggravated theft, aggravated breach of trust, and forgery in commercial or in banking accounts;

"Seeing, that in consequence of the said decree, an indictment has been drawn up by the *Procureur Général*, dated September 23, 1866;

"Seeing, that those two documents have been communicated to the accused by the summons of the 24th of September, and that on the 24th of the same month the said accused was examined by the President of Assize, in conformity with the articles 293, 294, 295 and 296 of the Code of Criminal Procedure;

"Seeing, that from that time the case was in a proper form to be tried and has been regularly set down for trial at this session;

"Seeing, nevertheless, that the counsel for the defence of Lamirande have, by the motions submitted at the sitting, demanded of the Court to pronounce the extradition of the accused invalid, and quite collaterally, to put off the trial of the case until a decision be come to by competent authority as to the validity of that extradition;

"Seeing, that in the matter of fact it follows from the documents in the case, and

especially from the Ministerial despatch of the 25th November, 1866, that on the demand of the French Government, Lamirande, put under arrest on an indictment comprising charges of forgery in commercial or in banking accounts, was placed by the Government of Canada, where he had fled for refuge, at the disposal of the French authorities ;

Seeing, that immediately after the extradition had taken place, the Imperial Government itself delivered the accused into the hands of justice, in order that he might answer before a competent tribunal for the crimes of forgery in commercial or in banking accounts, the crimes upon which the demand for his extradition were founded ;

" Seeing, that in the matter of law, Treaties of Extradition are high administrative acts, agreed upon between two Powers in the general interest of morality and social security ; that the forms and conditions thereof are regulated, not for the advantage of the persons accused, who cannot, by taking refuge abroad, obtain impunity for themselves from the law of their own country, but by the consideration of the international requirements or of the mutual observances of the Governments ;

" Seeing, that the fundamental principle of the separation of authorities is opposed to the possibility of the French courts of Law interfering in regard to the interpretation and the application of the Acts of the Government which gives up the accused to their jurisdiction.

" Seeing, that by the very fact of delivering an accused person into the hands of his natural judges, the Imperial Government confirms the regularity of his extradition, and that that decision, which lies within the exclusive jurisdiction of the Executive authority, cannot be the subject of any appeal ;

" For these reasons, the Court rejects the motions, both principal and collateral, drawn up by Lamirande's counsel, and decrees that the trial be proceeded with."

The President—Prisoner, you have heard what has been said. You need only answer as to the facts relating to the forgeries. Are you willing to answer to all the other charges recorded in the indictment ?

Lamirande—I am ready to answer as to all the facts.

M. Lachaud—I cannot allow my client to commit himself on that ground. I maintain that the letter of the Keeper of the Seals could only cause Lamirande to be sent before the assizes for the crime of forgery. No one can have the right, the Keeper of the Seals no more than anybody else, to violate the law.

The President—It is for that reason that I consulted Lamirande, leaving him his full liberty of action.

M. Lachaud—I persist in my protest, M. le Président, and, if necessary, I will make some very precise motions in order to define it clearly. Lamirande does not understand the consequences of his acquiescence ; it is the business of his Counsel to make him understand them. I ask only for a delay of five or six minutes in order to draw up my motions.

M. Lepetit—I entirely concur in and adopt the observations of Maitre Lachaud, and I unite with him in asking for time to write out our motions.

After being suspended for a few minutes, the sitting was resumed.

The President—Prisoner Lamirande, I repeat what I have already asked you, do you consent to be tried on all the charges brought against you ?

Lamirande—I have neither to consent nor not to consent.

M. Lachaud—Here are the motions which I submit in Lamirande's name :—
" Seeing that Lamirande has been remitted to the Vienne Court of Assize for trial on the triple charge of embezzlement, of aggravated theft, and of forgery in commercial or in banking accounts ;

" That the Decree has been communicated to him, and that he appears before the jury on that triple charge ;

" Seeing, that it cannot be in the power of any one to divide or to suppress a part of these several counts of indictment ;

" That Lamirande has not either to consent or not to consent to be tried for the crimes brought against him of breach of trust and aggravated theft, but that it concerns him that the jury should be called on to settle the whole charge ;

" That if it is true, as has been just laid down by the Court, that Treaties of Extradition can never be interpreted by Courts of Law ; it is inadmissible that there should be,

on their account, the power of modifying a charge before the Court of Law, where the case has been regularly brought;

"Seeing, that the letter of the Keeper of the Seals contains only the instructions given to the Attorney General, and could not in any way impede the carrying out of a decree of the Chamber of Indictments;

"For these reasons, that it be ruled that all the counts of the indictment be submitted to the jury.

Maitre Lachaud, after having read these motions, asked leave to argue them.

The President.—The Avocat Général, perhaps, has also some requisitions to make?

The First Avocat Général.—In fact we require that the Court may be pleased to separate the facts relating to the fraudulent abstractions, and to the embezzlements, and to order that Lamirande shall only be tried on the facts relating to the forgeries.

After Maitre Lachaud had argued his motions, and the first Advocate General had maintained his requisitions, the Court deliberated again and passed a second decree which rejected the motions of the defence, and decided in favor of the requisitions of the Law Officers.

The President.—Here, gentlemen of the jury, your part begins; hitherto you had nothing to do with the various points which have arisen during the discussions; they were within the exclusive cognizance of the Court. Now, gentlemen, it is for you to decide on the rest of the argument, bearing in mind that in conformity with the decree which the Court has just passed, you have but to consider and determine, exclusively, the charges relating to the crime of forgery in commercial or in banking accounts; all the other charges having been set aside by the decree.

It is the Law Officers' turn to speak.

The First Avocat Général: Gentlemen of the Jury—the importance of this matter, and the circumstances no less important which are connected with it, make it necessary for me to address you in order to explain how the case stands.

Lamirande had been sent before you to answer six distinct counts of indictment; but as the President has just explained to you, and that in conformity with the decree just passed by the Court, you will only have to take cognizance of charges relating to the forgeries. You understand, nevertheless, though you may not be called upon to decide on the whole of the original charges of the indictment, that I must give you a complete statement of the facts.

The Avocat Général, after having explained that the Branch of the Bank of France at Poitiers, was founded in 1858, and that from that time Lamirande was appointed cash keeper, reproduced, with remarks thereon, the facts alleged in the indictment. He gave some details respecting the way in which the current cash account was kept; he described the cellar where the silver specie was locked up, the bags which contained this specie in sums of 1,000 francs, their size and shape, as well as those of the sacks in which they were stored when a large remittance of silver had to be made.

The Counsel for the prosecution explained afterwards how Lamirande was able to purloin considerable amounts of silver as well as of gold specie. He maintained that the purloining could only have been effected by Lamirande in his own office, where he often found himself alone and without control. In fact, that he could not have purloined any of the silver specie after it had been taken down into the cellar in bags of 1,000 francs, as he never went alone into the cellar; there were three keys to open it, and three employés of the Bank were necessary to effect the opening. It was, then, in his own office that Lamirande abstracted 200 francs out of each 1,000 francs bag, taking care to reduce the size of the bags; afterwards, when these bags had been taken down into the cellar, and the doors were shut, it became impossible to guess by whose hands the fraud had been committed. Lamirande acted with great skill in thus conducting his operations; he made it impossible for the Bank to discover the guilty party; and if he had not discovered himself by his flight, no one knows who might have been suspected in regard to the silver specie locked up in the cellar.

With regard to the gold specie, said the Avocat Général, it is known that he replaced by paper the weight of the coin which he abstracted. The Avocat Général finished by recalling to mind that it was to conceal these defalcations, both in silver and gold, the total of which amounted to more than 700,000 francs, that he committed all the forgeries

which the indictment imputed to him.

After calling over the witnesses, to the number of nine, the sitting was adjourned to the next day.

Sitting of 4th December.

Yesterday's sitting, which was entirely occupied by points affecting questions of law, could but little interest the audience; nevertheless the public excitement had not subsided, and the crowd to-day, desirous of securing places in the Hall of the Assizes—a rather small one—was not less considerable. The first row of seats in the gallery, over the principal entrance, reserved exclusively for the use of ladies, was quite full. Reserved places on the right, on the left, and behind the seats of the Court, were occupied by magistrates, public functionaries, and officers of rank.

Proceedings were commenced by calling over the names of the witnesses, nine in number, who were conducted to the room set apart for them.

EXAMINATION OF THE ACCUSED.

The President—At what date were you appointed Cashier of the Branch Bank at Poitiers?

Lamirande—Eighteen months before the creation of that branch, which was established in August, 1858.

Question.—Tell us in what your functions consisted?—*Ans.* To receive into and to pay out of what is called the current cash; the surplus of the current cash went to the auxiliary chest, and thence to the cellars.

Question.—You were not the only person who held the keys of the cellars and the auxiliary chest?—*Ans.* No. I had one of the keys, the director had the other.

Question.—When did you begin to abstract funds from the safes (the cellar).—*Ans.* I think it was at the beginning of 1862.

Question.—There were also defalcations in the current cash; when did you begin them?—*Ans.* On the 12th of March, 1865, and I have carried them on since; but I was always hoping to substitute for the bags of gold of the current cash, bags of silver, which I should have had taken to the cellar.

Question.—But to substitute is not to restore?—*Ans.* I know that, I had no hope of restoring, but I wished to delay as much as possible the moment when I could be found out, and that is why I was always endeavouring to cover the deficit in the current cash, which might be checked any day, whilst so long as the deficit only existed in the specie deposited in the cellar I could hope that my deception might last for ever.

Question.—It has been remarked that the bags in the cellar which had been tampered with were placed under the others; that is quite certain, for bags were found with the stuff rotted, which leads to the supposition that they had been there a long time?—*Ans.* I did not take that precaution; the rotten bags may have become so in a short time on account of the temperature of the cellar.

Question.—In short you acknowledge that for the past three years, or three years and a half, you used to take from the reserves in the safe; and that since March, 1865, you have also embezzled from the current cash?—*Ans.* I acknowledge it.

Question.—With regard to the rouleaux of gold, you went to work in this manner: you opened a rouleau, you took out several pieces of gold, and you replaced the weight of those pieces by paper in such a way that if these rouleaux had been weighed without being opened, the weight would have been found correct within about a centigramme. That shows long practice. How much time did you require to tamper in this way with a bag of gold containing 20,000 francs?—*Ans.* About ten minutes.

Question.—That appears impossible, you must surely have devoted more time to it?—*Ans.* If I took more than ten minutes, I did not take a quarter of an hour.

Question.—What number of bank notes did you abstract from the cash in use?—*Ans.* I do not clearly remember whether it was 465,000 or 485,000 francs.

Question.—I am about to ask you a very important question, which I beg you to answer frankly. What have you done with the sums of money you carried off with you?—*Ans.* I spent them first of all in travelling. I bought some clothes. In England I gave an interpreter 7,000 francs. Then I had travelling expenses amounting to 3,000 or 4,000 francs. I spent a great deal in London, passing whole nights without sleep, nine nights

running. It is impossible for me to say how much money I spent during that period. On my passage from England to America I lent 6,000 francs to a Canadian who was going home. This sum he has restored to the Bank.

The President.—Let us not speak of what has been restored. What have you done with the remainder of the 465,000 or 485,000 francs you took with you on your departure?
—*Ans.* I gave 191,000 francs to my lawyers in New York.

M. Lachaud—Those fellows are not lawyers.

The President—New York lawyers.

M. Lachaud—They do not deserve the name. They are accomplices in the robbery.

The President—What has become of those 191,000 francs?—*Ans.* They were to keep 135,000 francs as a reserve for me, in case I had put in the plea of Extradition, or to return them to me. They have returned 25,000 francs, and the rest has remained in their hands.

Question.—What have you done with the remainder of the sums carried off?—*Ans.* I spent 10,000 francs amongst women. I squandered; I gambled; I paid heavy debts.

Question.—Who robbed you?—*Ans.* I cannot say. The thieves could not be got at without affecting innocent persons.

Question.—Why gamble, since you had large sums of money at your disposal?—*Ans.* It was known that I was not rich. I had large expenses. I gambled in order to induce the belief that I was winning a great deal, and that I found in my gains at play the means of meeting my expenses.

Question.—You said that you paid your debts, and yet that they are far from being got rid of?—*Ans.* That is true; but if there still remain debts amounting to about 30,000 francs, I have paid away on this account sums of much greater amount.

Question.—Do you acknowledge that for nearly three years, with the object of concealing you defalcations, you have falsified the bank returns.—*Ans.* The returns are not incorrect. These returns would rather serve to ruin me than to disguise the truth.

Question.—I know that; but it is not the question I put to you. I ask you whether, on inspection of those returns, the cash deficit could be suspected?—*Ans.* Certainly not. But the state of affairs shown in my returns would be correct were nothing missing from the coffers. My crime commenced with the defalcations, but not when I drew out my returns.

Question.—But which, nevertheless, served to conceal your embezzlements?—*Ans.* That is not my opinion. I add that, in making up these returns, I do not consider that I committed forgery either in commercial or in banking accounts.

President—That is a question of law which you must leave to your Counsel. Call a witness.

M. Lachaud—I beg your pardon, M. le Président. Will you allow me to say a word.

President—I do not think this is the right time, M. Lachaud.

M. Lachaud—I insist, M. le Président; it is my duty to insist. What I have to say is very important.

President—Your client has been examined on a point to which he would not reply. We cannot allow his advocate to reply for him.

M. Lachaud—I do not wish to undertake to reply for him. What I have to say can do no harm to him or any one else. I have here 110,200 francs (*M. Lachaud* placed before him a packet in a paper envelope.) I wish to give them up. I do give them up, and until they can reach their destination by way of restitution, I place them in the hands of M. Bourbeau, counsel for the prosecution. (Applause in the body of the hall.)

M. Bourbeau—I am not empowered to receive them. They had better be placed in the hands of the Director of the Bank, who will give a receipt for them.

M. Lachaud—There is no need of a receipt. (The Director of the Bank opened the parcel and took charge of the bank notes inclosed in it.)

The President to Lamirande—There is still missing about 120,000 francs. What have you done with that sum.

Lamirande—I can only give the same answer as before; I cannot say.

M. Lachaud—I should add a few words in explanation of this restitution of 110,200 francs. A hint was given us, to M. Lepetit and to myself. We followed up the tracks of the robbery. Every place was searched, even the house-tops. We asked Lamirande if

he would give the name of the woman to whom he had intrusted this sum. "No, no," said he, "I would die first. That person has herself been robbed, and I will not have her compromised."

We then devoted ourselves to this object, and we recovered the 110,200 francs which I have just given up. I must add that Lamirande never had this sum in his possession; and that if he had asked us for it, we should not have given it to him. (Sensation in Court).

The President.—Call a witness.

EXAMINATION OF WITNESSES.

The first witness examined was M. Dubois de Jancigny, Inspector of the Bank of France, the same who accompanied the workman who was sent to Poitiers for the purpose of opening the upper compartment of the current cash, the key of which Lamirande had carried off.

This witness confirmed all the details given in the indictment as to the verification of the deficit discovered after the departure of Lamirande.

The President.—Is it obligatory on the Cashier to furnish a daily Return showing the state of the cash?

Witness.—Nothing is more obligatory; it is by these Branch Returns that the Bank of France fixes the rate of discount. The duplicate of this Return is entered in a book kept at the Branch Bank.

Maitre Lachaud.—Are the instructions of the Bank the same for all the Branches as far as relates to making a duplicate of the daily Return?

Witness.—I think they have been the same for the last three or four years; formerly copying the Return into a bound book was not obligatory, although it was required by the Directors in several Branches.

The President to the Witness.—It is shown by the confessions of Lamirande that your anticipations were well-founded, inasmuch as the first embezzlements go back for more than three years. Now tell us whether he could have effected these embezzlements without rendering false accounts?

Witness.—It was the necessary consequence of the embezzlements; without the falsified Returns it would soon have been discovered that there was something amiss in the cash; there would have been an examination, the fraud would have been discovered, and Lamirande would have been arrested.

Question.—Lamirande pretends that the daily Returns, far from facilitating his embezzlements, made discoveries more easy, for, he adds, by comparing the Returns with the state of the cash, an account might have been taken—simply weighing the money would have been sufficient.—*Ans.* This argument would be valid if suspicion had been entertained; but the Returns, by concealing the deficit, could not but aid the deception.

Question.—Lamirande acknowledges the embezzlement; his reason is apparent; he is not prosecuted upon those counts, but he denies the forgery for which he is prosecuted—his tactics are understood.—*Ans.* In my opinion the two facts, that of embezzlement and that of forgery, cannot be separated; the one came to the assistance of the other.

Question.—Explain to us the nature of the responsibility of the Cashier, both as regards the current cash and as regards the money in reserve?—*Ans.* With regard to the current cash which is in the Cashier's office, the responsibility falls personally and solely upon him. It is not the same as regards the funds in reserve (in the cellar or the safe); here the responsibility is divided between two persons, the Director of the Branch, who has one key, and the Cashier, who has another.

Question.—Is it not in consequence of that divided responsibility that the late Director, M. Bailly, has been replaced?—*Ans.* Yes, M. le Président.

M. Bailly, who has been for fifty-two years a landowner at Angers, late Director of the Branch Bank of Poitiers, was called to the bar.

The President.—Tell us what you know.

M. Bailly.—Gentlemen of the jury, on the 11th of March last I received an order from the Bank of France to despatch to the Angoulême Branch, first 1,000,000 and then 500,000 francs. The same day I gave directions to Lamirande, my cashier, to despatch on the next day, the 12th, the 1,000,000 francs, and to make preparation for the despatch of the 500,000 francs on the 13th of March. The issue of these orders brings us to the

13th of March, on the morning of which day I received a letter from M. Lamirande, informing me that he had been suddenly obliged to go to Châtelleraut, leaving to M. Quegriaux, chief accountant, his keys, and the duty of despatching the 500,000 francs to Angoulême.

Here the witness entered into the details given in the indictment, of the discovery of the frauds perpetrated in the bags of silver destined for Angoulême, and, at a latter period, in the bags of gold. In the bags of silver 200 francs were uniformly missing per bag; in the bags of gold, the weight of the abstracted coin was replaced by an equal weight of silver coin and paper. These frauds could never have been committed either in the cellar or in the safe: it must necessarily have been in his office that this operation was performed and where the bags were thus altered, but weighing their proper weight; the attendants carried them into the cellar or into the safe, and the doors once closed Lamirande was out of danger, for from that moment the responsibility was divided between him and me. I never intrusted my keys of the reserve to Lamirande, in whom, however, I had the greatest confidence.

The President—The cashier then was personally responsible for his current cash: and as regards the reserves you shared the responsibility with him?

The Witness—Yes, M. le Président, this is the case in all the Branch Banks. I was myself for long while cashier in a branch, and was responsible for my current cash.

Question—How is it that Lamirande was able to continue his embezzlement for more than three years, which is proved in the first instance by his confessions, and secondly by a certain number of the bags found in the cellar being so old?—*Ans.* The cashier has the superintendence of the movement of all funds. When we went down to the reserves he it was who pointed out the divisions from which the bags to be sent away were to be taken. It is quite natural that he should take care not to point out for removal the bags which had been tampered with. To have interfered with his directions suspicions must have been entertained of him.

The President—Prisoner, what have you to say on this deposition?

Lamirande—Nothing, M. le Président; except to express to M. Bailly my profound regret for the consequences which have been entailed upon him by my conduct.

Question—These regrets have come very late. When, on the 13th of March, you had so well prepared for your flight you did not think of the responsibility which would fall upon him by your carrying off more than 400,000 francs from your cash?—*Ans.* I did not prepare for my flight, I yielded through necessity; I had the choice of suicide or flight.

Question—But not with 400,000 francs?—*Ans.* I might have taken 5,000,000. (Sensation.)

Question—So your discretion is to be praised then?—*Ans.* I do not look for praise, but I wish to state that in the dire necessity in which I found myself I could not leave with empty hands; but that if I had been a thief, I should have taken all that I could lay hands on.

M. Bailly gave evidence in confirmation that the falsified returns of the state of the cash delivered to him each day by Lamirande, could not but lull him to confidence, and aid in the continuance of the embezzlement.

M. de Grétry, Treasurer and Paymaster General at Poitiers—I have been Receiver at Vienne since 1865, and Inspector (“*censeur*”) of the Branch Bank of Poitiers, it is in this latter character that I have had occasion to have some relations with Lamirande. I do not know him personally, nor am I aware of his antecedents.

On the 13th of March last, I was sent for to the bank by the director. There I was informed that, owing to the despatch of 500,000 francs in silver to Angoulême, it had been discovered that a great number of bags did not contain the sums which they ought to have held, and that the cashier, Lamirande, had written in the morning to the director to say that he had left suddenly for Châtelleraut, and had left the keys of the cash with M. Quegriaux, Chief Accountant; at the same time begging him to undertake the despatch of the 500,000 francs to Angoulême. I at once got M. Bailly to go and make a declaration before the Procureur Imperial, where I accompanied him. An express was also sent to the Bank requesting them to send an inspector and a workman to open the upper compartment of the current cash, the key of which Lamirande had carried off.

The remainder of this witness's deposition only refers to what is already known.

M. Lambert, manager ("administrateur") of the Branch at Poitiers, formerly a magistrate, was called to the bar.

The President—Several witnesses have already deposed to the facts of which you are called to make your declaration. We request you to sum it up in as few words as possible.

M. Lambert, in fact only confirmed what had been said by the previous witnesses, as well upon the working of the accounts of the Branch, and the removing of funds, as upon the responsibility incumbent on the cashier, and the circumstances which led to the discovery of the frauds.

The President—Have you been long manager of the Branch?

The Witness—Since its formation, M. le Président.

The President—Have you sometimes verified the cash?

The Witness—Never, M. le Président, except on the 13th of March, when I was called upon to do so after the flight of Lamirande.

Question.—What are the duties of the manager?—*Ans.* Solely to assure himself of the solvency of persons who present bills for discount.

M. Quegriaux, late chief accountant of the Branch, banker at Poitiers, was called.

The President—You are called before us, sir, to give us some information on the management of the accounts of the Branch.

M. Quegriaux, after having referred to the facts which proceeded and followed the flight of Lamirande, added:—With regard to the accounts this was the arrangement: M. Lamirande, as cashier, gave me the papers. I entered the accounts in my books, and in the evening I checked the balance of my account by that of his cash-book. It was necessary that the two balances should agree, and they always did so.

The President—But in order that Lamirande's balance should correspond with yours, it must necessarily have been false.

M. Quegriaux.—Doubtless; but I was not aware of the falsity.

Question.—How did Lamirande conduct himself at Poitiers.—*Ans.* I was perfectly ignorant on the subject. It is only since his flight that I have become aware that he spent a great deal of money.

Question.—It is said from 60,000 to 80,000 francs a year.—*Ans.* That is what I have heard said; but only since his disappearance.

Question.—And of what nature was his expenditure?—*Ans.* I have been told that he gambled away a great deal.

Question.—Sixty thousand francs, it is stated, at one time, either at Angoulême or at Angers?

Lamirande.—I have never been at Angers; and nowhere, not even at Angoulême, did I ever lose 60,000 francs.

M. Lachaud.—It matters little. What is certain is, that you have played and lost a great deal.

Lamirande.—I own it.

M. Maréchal, a clerk at the Branch Bank, who had to go to the railway with the 500,000 francs despatched to Angoulême, and who, on weighing the bags, found out that from 55,000 to 60,000 francs must be missing, confirmed these facts.

M. Sarraut, attendant in the cash department of the Branch Bank, and Barry, the doorkeeper, likewise went with the 500,000 francs. Both confirmed the facts stated by the clerk, Maréchal. Sarraut, who, besides being an attendant in the cash department was at the same time Lamirande's private servant, added that the day after Lamirande's flight, on going into his room, he remarked that papers had been burnt in the grate.

The President—Lamirande, what papers were those?

Lamirande—I had destroyed acknowledgments for money which I had lent.

The President—I do not understand; what! burn acknowledgments for money lent?

Lamirande—I was completely bewildered.

The President—Not so completely; all the preparations you made for your flight prove the contrary.

Lamirande—I declare that I was bewildered; the whole of my conduct after my flight leaves no doubt of it.

Maitre Bourbeau, counsel for the Bank of France, was called on to speak for the prosecution.

M. Bourbeau—I appear before you on the part of the Bank of France, to defend great interests, interests moral and material, for which, as regards the latter, some reparation has been commenced.

The story of Lamirande is a sad one. You are not called upon to punish in him a mere deviation, a moment of forgetfulness, but a long series of misdeeds; a perseverance in evil which might be called incorrigible; no remorse, no twinges of conscience, ever hindered him; three years he has squandered 219,000 francs, and that by means of daily tricks. How does he explain them? By his passion for play. Gambling is not an excuse, it can be but an explanation. A day arrives when he can no longer continue his embezzlements, and he takes flight, without considering that he leaves behind him two disconsolate families, his own and that of his unhappy director. He departs; it is not to his own family that he goes to bid farewell, but to two women of that town, upon whom he rains down Danae's golden shower. Let us for a moment follow him; he leaves Poitiers; he goes first to England, then to English America—to Canada. There he becomes the subject of a demand for extradition on the part of the French Government. An incident happens.

The President—Do not touch upon the question of extradition. You are aware of the decisions passed by the Court yesterday.

M. Bourbeau—I only wished to say two words.

The President—Not even two words, Maître Bourbeau. Be good enough to pass that over.

M. Bourbeau.—Well, let us say nothing about the extradition, let us also be silent on the subject of the robberies, fraudulent abstractions, and embezzlements, and since henceforth he can only be persecuted for forgeries in commercial or in banking accounts, let us discuss the question of forgery. Can there be a doubt as regards this crime after the explanations which have resulted from these discussions? We do not hesitate to declare that, as far as we are concerned, there cannot be the shadow of a doubt. He made false returns of the state of his cash; that is proved and he confesses it. With what object? With the sole intent of seeking protection from the consequences of his embezzlements by falsifying his accounts. When, therefore, he showed, by his accounts, the existence of so many bags of 1,000 francs, whilst a great number of those bags only contained 800 francs each, did he not commit forgery? See him in his office, whether abstracting 200 francs from bags of 1,000 francs each, or transforming rouleaux of gold into rouleaux of silver, and having these effects taken to the cellar; there is the robbery, there is the embezzlement. But afterwards, what does he do? He takes his pen, and enters in his cash-book and his returns sums which exist no longer, since he has embezzled them. And shall not that be called forgery, and why?

Is not the Bank of France a commercial Company? Does it not trade in the value of gold and silver? Was not Lamirande the clerk of a commercial Company? To all these questions the answers can only be in the affirmative. No, it cannot be said that for three years a cashier can have written a false account of a deficient balance on hand, and yet not be a forger.

See what were the consequences for these forgeries. By the aid of these forgeries he was enabled to pass from the current cash, of which he had the sole responsibility, to the cash in reserve, the responsibility of which was divided between him and the director, a sum of more than 200,000 francs, and this is how the upright director, M. Bailly, rests morally responsible for that sum, which he never received.

Entering upon the question of law, the advocate quoted a decree of the Court of Cassation of 1841, which declares that false entries made by a clerk in commercial books constitutes a forgery in commercial accounts. The case cited relates to a clerk who entered as sold, in his master's books, goods which he had stolen.

The Court of Cassation ruled that that constituted forgery, inasmuch as the false entries concealed the truth, and moreover, were calculated to mislead the merchant as to the true state of his affairs. In this case, as well as in the one which we are discussing, forgery is a means of concealing robbery, either committed or about to be committed.

Gentlemen, I have ended my address, and I have demonstrated the injury which may be caused by false accounts in commercial business. Lamirande was a thief. He was necessarily obliged to become a forger. By these forgeries he has been the cause of a triple injury to the bank. First, an injury in regard to money, then a second injury in

leaving it ignorant of the true state of the Poitiers branch—ignorance which hindered it from apportioning its funds where they could be of service; and, lastly a third injury, that caused a superior officer of the bank, the upright M. Bailly, who, even after the loss of his confidential employment, rests under the stroke of the moral responsibility of part of the misdeeds of his faithless cashier.

I have accomplished my task. The proverbial honesty of fair Poitiers has experienced a cruel blow. For three years an individual has labored secretly to inflict upon it this cruel injury; but as is invariably the case, justice, supported by public opinion, has discovered the criminal, and to-day he is handed over to you. Gentlemen, you will do him justice, for I know that your decision will be guided by the conscience of the judge and the indignation of the citizen.

The sitting was postponed till the next day at half-past seven.

Sitting of December 5.

The sitting commenced at 11 o'clock, amid the excitement caused by the incident which led to the restitution of the sum of 110,200 francs.

M. le Premier Avocat-General Gast, commenced and expressed himself as follows:—

Rarely in a criminal case has the day of trial been more anxiously desired, more impatiently looked for than in this one which is now submitted to your judgment. It is not that this case involves one of those atrocious crimes which spread consternation and terror through society; yet, without possessing this fearful importance, this case has the sad privilege of having raised public indignation to the highest point. Let us state, at once, that this indignation does honor to the human heart. It is, in truth, one of those spectacles that are revolting to the feelings of our nature. Public opinion has been outraged by Lamirande's crimes, at an age when the powers of his mind had reached their full maturity. Lamirande was placed in a confidential position which intrusted immense riches to his care. The severity of the precautions as well as the sentiments of honor and delicacy which he had imbibed in his respectable family, seemed to be a guarantee for the fidelity of his conduct.

What has happened? Lamirande found himself one day hesitating between the desire of yielding to his ignoble instincts and the duty of respecting the treasures intrusted to his care. It so fell out that avarice prevailed over duty. Lamirande crossed the abyss that lay open before him, and after having laid a guilty hand upon the treasures of which he was the guardian, he became a forger.

Once engaged in this criminal course the accused persisted in it up to the time when his crimes were discovered, and Lamirande crowned them all by one yet more heinous.

He wished to assure himself a rich independence abroad in order to continue the debaucheries to which he was accustomed. But the Government felt that it was indispensable to see the extradition of Lamirande. Ah! If to cross the frontier were sufficient, the greatest criminals might count on social impunity. Hence the principle of extradition is daily gaining ground. Our most eminent statesman has said "Extradition is a reciprocal guarantee against the ubiquity of evil."

You are, however, aware of the scandal which has arisen in the foreign country where he took refuge. You know how Lamirande, by means of the gold which he had stolen from the Bank of France, was enabled to hire a whole host of instruments who set about quibbling over the conditions of the Treaty. Having taken refuge in Canada, he was at length delivered up to France, and now Lamirande awaits the just chastisement which he has incurred. We do not ask for vengeance, but for justice.

You are aware that Lamirande can only be tried by you for the crime of forgery. You have been told that this criminal has been suddenly touched with the spirit of repentance. You are promised that if he is acquitted upon the charge of forgery, he will come and offer himself up as a holocaust on the other heads of accusation. Let us suppose that this is not a forensic stratagem; let us suppose that he may be willing to be tried hereafter for the crimes of robbery and abuse of confidence, that would be no reason for acquitting him upon the question of forgery. In fact, in our eyes, the crime of forgery is clearly proved.

What! there is no crime of forgery in this case? Here is a cashier who every day abstracts money from his cash—who daily certifies to his chief, in his accounts, that all is

correct; the accused was carrying on criminal operations in his cash without reproducing them in his accounts. The accounts are and ought to be a photograph of the cash. This is dictated by common sense.

During yesterday's sittings you heard a magisterial demonstration of the existence of the forgery. There is, first of all, a consideration which is of serious importance. A criminal procedure, previously to its coming before the assizes, has to undergo a double test: first, the preliminary examination; then, if the deed amounts to a crime, the procedure is submitted to the Imperial Court, the Chamber of Indictment. This course has been followed in Lamirande's case.

After having passed in review all the different phases of the procedure, M. le Avocat Général examined into the character of the forgery as regards the law, and applied its principles to the facts of the case. He then drew attention to the enormous injury occasioned to the Bank of France.

Lamirande has precipitated his father into the depths of despair; he has dishonored his name. But chastisement was not long in overtaking him. He received reproof even from that shameless creature whom he kept, who was living by prostitution, and who, on learning his arrest, said, "That man has no heart; I thought he loved his father and mother: he loves no one."

Never has a prisoner appeared before a jury with such an accumulation of crimes. He has accomplished these crimes with unrivalled intrepidity and assurance. His coolness never abandoned him, and everything shews the premeditation of the accused.

What was his motive of action? His motive was the most vile: a thirst for the basest enjoyments, the most ignoble lusts, not to mention the pleasures of the chase, the excitement of the gaming-table was necessary to him; he required the refinements of the most shameless luxury. This finished debauchee must needs have two expensively kept mistresses.

Expatriating on the circumstances attending the restitution of the 110,200 francs, M. le Avocat Général said that it was meant for theatrical effect. That restitution was the act of a thief, who, finding that he is pursued, abandons a portion of his booty in order to save the rest. Lamirande would fain contrive to reap the benefit of extenuating circumstances, but the accused is unworthy of it, and the jury will show him no pity. The crimes of the accused have resounded everywhere; the penalty should fall on him in all its weight. You will assure to society, to public conscience, the reparation which is their due.

M. Lachaud, Lamirande's Counsel, expressed himself as follows:—

We, on the side of the defence, have ever recognized the gravity of this case. A cashier who forgets his duty, and who betrays the confidence reposed in him,—nothing is more serious. We should not deserve to be French advocates if we did not agree with those who administer the laws on all that touches honor, probity, and loyalty. But in order that Justice may be impartial, she must take everything into consideration; she must weigh everything with the greatest care. Justice is the most important thing in the world, for it belongs to God. But, after having acknowledged the enormity of the crime, you must take account of the accused, of his life, his weakness, his unheard-of sufferings. Unless you will take all this into account, it will be not justice but vengeance, which M. l'Avocat Général desires no more than I do.

The wretched man whom I defend is 42 years of age. Of his family I will say nothing. Who is there here who does not know that everybody pities, esteems and loves his venerable father, whom God has allowed to live too long, since he witnesses the dishonor of his name?

I will not speak to you of his pious mother, nor of his brother—a most worthy man. The wretched Lamirande stands before you under the weight of a terrible accusation. Let him accept this new indignity, and let it be to him the most ineffaceable of misfortunes.

When the storm lowered over his unhappy family, people were considerate towards them; I mention the fact as an honor to the country. Alas! Lamirande knew not how to be a son worthy of those good people. His youth was marked by deviations, by follies, by prodigality; and when, in 1858, he was made a cashier, he owned more than 50,000 francs. The wish to benefit this young man led perhaps, to the commission of an imprudence,

The cashier should be a man of unassuming habits, of frugal life. He is the most perfect representative—he ought to be so—of accuracy and modesty.

That man who will see open before him the treasures of the Bank of France; he will struggle for a long time; when he shall succumb you will call him a criminal. Oh, these treasures ought not to have been intrusted to him.

Up to 1862, Lamirande's conduct had been irreproachable. His small debts increased. He did not, indeed, indulge in the luxury but in the disgrace of two mistresses. One of them I pity; of another I do not speak, and for her I leave to M. l'Avocat Général the right of expressing all his contempt at his ease.

One day, when he was harassed on all sides in the midst of his engagements, there was a deficit; he was short of 5,000 francs. That is not much in accounts such as those of the Bank of France. Distressed, and not daring to impose a new sacrifice on his family, he committed a theft; the abyss was opened. When the first step in this path has been taken, wickedness strides on, evil urges us forward, we become its slave. That is what happened to this wretched man. After having provided for the deficit, he paid his debts; he gambled, he reckoned on good luck, he lost, and after having lost 100,000 francs, from fault to fault, from fall to fall, he at last took flight, as you know.

This terrible affair will serve as a great example for all cashiers. The fact of the case shows that Lamirande's precautions were ridiculous. He cut open the bags, he replaced gold by silver, but examination was possible; he was at the mercy of the first serious inspection.

You recall to mind Lamirande's flight; going in his uneasy conscience to seek a refuge in Canada, betrayed on all sides. His sufferings were so severe, that I ask myself whether it be not preferable to stand at the bar of infamy. When he was taken into custody in Canada, how much, think you, had he left? Eighteen francs; he who carried off half a million. And when he wrote to those men, whom I certainly shall not call lawyers, for a small sum, he received no answer.

These are the miseries which he has experienced. When he came back to France in rags, the Police Agent was forced to lend him clothes to enable him to embark on the boat which brought him into France. Alas! what a lesson!

I might speak of yesterday's incident. We might ask ourselves, my colleague and I, how we have been benefited by the restitution made in court yesterday; if the counsel for the defence were not men of upright character (for which we thank nobody) there might be danger in acting as is right. No, no, M. l'Avocat Général, we did not want to produce a theatrical effect. The money was handed into the court because we did not think it proper to give it up sooner. If we restored that money, it was because we, and not Lamirande, recovered it.

Let me say to my colleagues at the bar, that which we have done with heart and honor, you would have done likewise, but many sleepless nights you would have passed in consequence. These are the facts. I, gentlemen, am proud of them, and my colleague, Lepetit, is as proud of them as I am.

We in France are not Yankee lawyers. Three heads of accusation have been laid to the charge of Lamirande. Theft, embezzlement and forgery.

The counsel, after having laid aside the two first heads, examined the legal character of forgery.

Article 147 punishes (why should I not say so? There is nothing that I am aware of to prevent it.) Article 147 of the Penal Code punishes the crime of forgery with penal servitude for a term. But where do you find perversion of the truth. The cash book is correct, the returns include the amount of capital in all the coffers of the Bank. Now you are aware that there were three divisions of the cash. The Accountant's documents alone served to make out the return. As to the cashier's accounts they were right. But where is the obligation, the discharge. Show me the engagement in favor or against any one. They have told you that there was therein a complete discharge, imposing the responsibility upon one who ought not to have borne it. This pretended discharge, of which you have been told, cannot then impede you. But where then is the injury? I appeal to Maître Bourbeau, who is my colleague, and with whom I can allow myself greater latitude than with the Avocat Général.

It is because there may be a moral injury that it can be said that there is a real

injury, as the law understands it. Oh! but it said, you have imposed on the Bank. I answer that the Bank is not the less rich for a million more or less, so long as its credit is not affected. Yes, I have imposed on the Bank, I have imposed on it by robbing, but not by forgery.

The Bank of France has current accounts. If the current account is not correct, there may be a wrong, a perversion of truth. That is a forgery. But to have perverted truth, and to have caused a moral injury, is not sufficient. The lie in writing is not sufficient. That may be a swindle, it may be a fraudulent scheme. Well, the cashier's book, my own book, has not been falsified.

What you attack are the internal accounts of the Bank. But the unhappy man there, however guilty he may be in your eyes in a moral point of view, is nevertheless not a forger.

Above all, the jury are bound by their oath, if forgery has been committed that man must be judged guilty of forgery. Be assured I do not ask impunity for that man. He will not get off; he does not wish, and I do not want it.

Here is the declaration which I have been commissioned to read to you, in the name of Lamirande, and I pass my word for him:—

"I, the undersigned, Bureau Lamirande (Ernest Charles Constant), solemnly declare that, if the verdict of the jury, who have to determine on the crime of which I am accused, and which I protest I never intended to commit, is in the negative, I do not intend to avail myself in any way of the privilege of the Treaty of Extradition with England; that, on the contrary, I ask in that case to be tried by the Court of Assize of Vienne, for the acts of embezzlement and theft which are laid to my charge by order of the Court of Indictment.

"I am therefore prepared to surrender myself as a prisoner, and I request my Counsel to place this declaration in the hand of the Attorney General.

"Poitiers, December 4th, 1866.

(Signed,)

"LAMIRANDE."

Ah! M. l'Avocat Général, did you not understand how I was situated in this matter. We did not wish to shelter ourselves behind Treaties of Extradition. Away! away! We do not have recourse to such means. We wear the long robe as well as magistrates. The colour is of no consequence; conscience is everything.

In three months Lamirande will be here, and you will try him,—you or others. I wish him to have the benefit of his courage; I wish him, after the verdict of the jury, to be free before the law, but to be a prisoner before justice, and by his own free will. We advocates appreciate above all things compassion. The advocate for an accused man sustains and raises him; he speaks to him of remorse, of God, and of atonement.

We are physicians of the mind, happy and proud to be so. That man will be acquitted, but justice will be done in three months.

I have pleaded my cause according to the view I have taken of it; I have spoken the truth. In three months we will not say that the law is for us, but that it is against us; no doubt we shall endeavour, in a certain measure, to soften the hearts of the jury towards so much suffering.

Alas, for the unhappy man! If you only knew what he has suffered. Yes, before taking his place on that bench, he found yesterday in his prison these three letters, which I wish to read to you. Whilst reading these lines I was deeply moved, and you will share my emotion.

Here is, first, the letter of Lamirande's pious mother:—

"DEAREST, UNHAPPY CHILD,—I did not wait for your cry of lamentation before forgiving your crime. I feel an intense compassion for you in thinking of the lot which you have prepared for yourself, and the sufferings which you have brought upon yourself.

"I fervently pray Heaven that your judges may be indulgent, and that God may forgive you as your mother forgives you.

(Signed,)

"A. S. LAMIRANDE."

Here is the old man's letter to his son:—

"I knew that the hour of repentance would precede the hour of justice; and, unhappy

child, I forgave you from the day in which you acknowledged your error. I have suffered in a deeper degree than you, the miseries which are the inevitable consequences of your shame, and of your flight. I shall suffer still from the terrible penalties which will be inflicted on you. I shall not complain if you can support your suffering with dignity, and continue in your repentance.

"I need not tell you that we all pray that your Judge may be indulgent, and give you credit for an honorable life till the day in which you failed in honor and probity.

"Repent and God will aid you.

"Your unhappy father,

(Signed,)

"S. LAMIRANDE."

Lastly, Lamirande's brother wrote as follows:—

MY POOR BROTHER,—Your past sufferings, your present sufferings, infinitely sharper, fill us with compassion for you; but it is not on their account that we forgive you. It is on account of your repentance which we think sincere and complete. There is your refuge; there alone can you recover peace with yourself. It is only by repentance that hereafter, by dint of courage, patience and denial, you can regain self-respect. We will support you with all our might in the accomplishment of that work which is impossible at present, but will not always be so. Have courage, then; our love will not fail you, if you will be firm enough to be worthy of it. It will aid you in regaining our esteem.

(Signed,)

"C. LAMIRANDE.

"P.S.—Mathilde joins in the sentiments which I express."

I will add nothing to these letters. Lamirande is dead as regards the world. In three months' time he will be condemned by the Court of Assize; but if men are severe, God will be compassionate to him. A future of love exists in those letters which I return to him. His parents will still live to forgive and love. There stands the case. The hour approaches; it is nigh at hand; but do not without necessity violate the law. I reckon upon you, gentlemen, because you are men of feeling and of conscience, and because you will not strike till it is necessary to do so.

This sitting was suspended till a quarter past 2 o'clock.

After the replies of the Avocat Général and of Maître Lepetit, the President summed up the arguments; the Jury then retired to deliberate. At the end of three-quarters of an hour they brought in a verdict of guilty upon the charge of forgery and of the employment of falsified papers. They acknowledged that there were extenuating circumstances in favor of the accused.

The Court, after deliberation, condemned Bureau de Lamirande to ten years' imprisonment (*réclusion*).

Lamirande appeared overwhelmed.

(No. 24.)

Earl Cowley to Lord Stanley (Received, December 15).

PARIS, December 13th, 1866.

MY LORD,—In compliance with the instructions contained in Your Lordship's despatch of the 7th instant, to inquire into the correctness of the statement of a daily paper that, a few weeks since, a criminal whose capture or surrender had been improperly obtained in France was, after a conviction and sentence in France, sent back to Switzerland by order of the Imperial Government; I desired M. Treite to make inquiries, and I now inclose copy of a letter which I have received from that gentleman, from which Your Lordship will perceive that he has not been able to find any trace of such a case having occurred recently.

M. Treite considers that the newspaper refers to the case of Dermenon, in 1840, of which he gives a summary, and which turned less on the irregularity of the extradition than on the principle that an accused person can only be tried on the charges upon which the extradition had been granted.

M. Treite also states that the only point in this precedent which has any bearing on Lamirande's case is, that it follows from it that, when the Executive declares an extradition not to have been made according to law, it can waive, and give up the individual.

I have, &c.,

(Signed,)

COWLEY.

(Inclosure in No. 24.)

(Translation.)

M. Treite to Earl Cowley.

PARIS, December 11, 1866.

MY LORD,—Your Excellency has been pleased to communicate with me respecting a criminal whom, according to a certain newspaper, the French Government had, a few weeks ago, sent back to Switzerland on account of the irregularity of the extradition, a fact which would constitute a precedent for the restitution of Lamirande.

I hasten to inform your Excellency, in reply, that, notwithstanding my researches, I have not been able to trace any such case of a recent date; and unless, indeed, it has been deeply buried in the secret recesses of the Chancery, I do not think that such a case exists.

There must have been a misapprehension in the newspaper assertion. The precedent to which allusion has been made, evidently relates to the case of one Dermenon, tried in 1840, and in which it was less the irregularity of the extradition that was in question, than the principle that the accused can only be tried for the reasons or charges on account of which the extradition had been effected. This is the case: A criminal named Dermenon had taken refuge in Switzerland. He had been indicted for fraudulent bankruptcy before the Court of Assize of the Department of Côte d'Or, at Dijon. The commitment of the Court of Assize provided that Dermenon should be eventually arraigned before the Tribunal of Correctional Police for the misdemeanor of simple bankruptcy and breach of trust, if he were acquitted on the charge of fraudulent bankruptcy. The extradition of Dermenon was demanded on account of this latter charge, and was granted by the Canton of Geneva, but the jury acquitted Dermenon.

The Procureur Général of the Dijon Court then inquired of the Minister of Justice whether Dermenon should be tried for the misdemeanors of simple bankruptcy and breach of trust. The Minister replied, that as the accused had only been surrendered on the charge of forgery, he could not be put on his trial for other reasons, and that he must be reconducted to the frontier. But the Canton of Geneva refused to receive him, and Dermenon was brought back to Dijon, where he was taken before the Tribunal of Correctional Police, on the charge of breach of trust and simple bankruptcy. The accused alleged his *status* as a refugee; the enforced irregularity of his presence in France, &c. The Police Tribunal allowed Dermenon's objections, and ordered him to be taken back to the frontier. But the Procureur Général appealed against this decision, and the Court, revising the judgment of the Tribunal of First Instance, decided, by a decree of August 14th, 1840, that the case should be tried, on the ground that "if Frenchmen prosecuted in France for crimes and misdemeanors, are protected by the inviolability of a foreign territory, they cannot avail themselves of that inviolability when the foreign country rejects them."

Dermenon appealed to the Court of Cassation against this decision, and the Supreme Court, by a Decree of the 4th of September, 1840, quashed the sentence of the Court of Dijon, because it ought to have suspended the proceedings, considering that the question was, whether the refusal of Geneva to receive the accused, amounted to a regular extradition, and that the Government alone was competent to decide the point.

The Executive Power, in fact, decided that Dermenon could not be tried on account of the irregularity of his extradition, and ordered him back to the frontier.

As you will perceive, the principal doctrine which results from these facts is, that the French Government would not allow Dermenon to be tried on charges other than those on account of which his extradition had been demanded and obtained.

The French Government has always observed this principle, of which there are numerous instances, amongst which may be cited that of an individual, who, in 1815, had been condemned for crime through contempt of court. The same individual was subsequently arrested for complicity in the attempt to assassinate the Duke of Wellington. The Government procured his extradition on this charge, but he was acquitted by the jury, and was able to go abroad again.

But, in the second place, it results from the Dermenon case that the French Government would not consider as regular an extradition founded merely on the refusal of a foreign Government to receive an accused person who already had previously found a refuge

in its territory. It further results, that when the executive power finds that an extradition is not according to law, they can decline to take advantage of it, and give up the person surrendered. This is the sole point in which the Dermenon precedent affects the case of Lamirande.

It was to this Dermenon decision that the Avocat Général made allusion during the Lamirande proceedings, when he urged that the judicial authority was altogether incompetent to decide upon the facts of extradition, with the single exception of a case in which the extradition had been effected without intervention of the executive power, and then the Judge ought to suspend the proceedings until such time as the Government had pronounced a decision on the regularity of the extradition.

Besides, this is the principle enunciated in the famous Chancery Circular of April 5, 1841, which brings clearly out all the points of extradition practice in France.

Thus, if any doubt arises respecting the legality of the extradition, the judicial authority will grant a delay, and in order to preserve intact the distinction between the judicial and executive powers, will await the decision of the latter authority, which alone can interpret international treaties. There was no occasion in the Lamirande proceedings to grant a delay, for the Government had decided that the extradition was regular and had sent the person surrendered for trial.

These doctrines are generally adopted by French publicists, but the dispute arising from the extradition of Lamirande is also generally regretted.

If it be true that this prisoner, regularly surrendered by the proper authority, was so surrendered in a manner not within the provisions of the English law, and under unusual circumstances, the French Government ought not to take advantage of that extradition.

This would be the only means of preparing the way for a good treaty, which is indispensably necessary for both sides of the channel.

Accept, &c.

(Signed,) TREITE,
Avocat de la Cour Impériale.

(No. 25.)

Earl Cowley to Lord Stanley (Received, December 20).

PARIS, December 19, 1866.

MY LORD,—In taking leave of M. de Moustier this afternoon, I recommended to his attention the last communication which I had made to him on the subject of Lamirande's extradition.

His Excellency replied that the French Government could do nothing more; that if Her Majesty's Government had any claim to make upon the Imperial Government in consequence of the infraction of the Extradition Treaty, it should be put forward officially, and supported by proofs. The Imperial Government would be quite ready to consider a demand of the kind, and to examine it upon its merits; and he could assure me that if Her Majesty's Government could make out a case, Lamirande should be surrendered to them.

I observed that it would be, in my opinion, preferable to make this question the subject of a confidential, rather than of an official inquiry. M. de Moustier rejoined that, under any circumstances, it must partake of an official character.

I have, &c.,

(Signed,) COWLEY.

(No. 26.)

Lord Stanley to Admiral Harris.

FOREIGN OFFICE, December 20, 1866.

SIR,—In the second leading article of the "Daily News" of the 7th instant, it is stated, "It is only a few weeks since that a criminal, whose capture or surrender had been improperly obtained in Switzerland, was, after conviction and sentence in France, sent back to Switzerland, by order of the Imperial Government, on the ground of the antecedent irregularity."

I have referred to Her Majesty's Ambassador at Paris on this subject, but I have not been able to obtain any information of a case answering the above description, and of so recent a date as is stated in the "Daily News."

I have therefore to instruct you to furnish me with any particulars of which you are in possession, in explanation of the statement above referred to.

I am, &c.,

(Signed,) STANLEY.

(No. 27.)

[Admiral Harris to Lord Stanley, (Received, December 30).]

BERNE, December 28, 1866.

MY LORD,—In accordance with the instructions contained in your Lordship's despatch, dated the 20th instant, I have obtained the details of a case, doubtless the one alluded to in an article of the "Daily News" of the 7th instant, in which it is stated that "a criminal, whose capture and surrender had been improperly obtained in Switzerland, was, after conviction and sentence in France, sent back to Switzerland, on the ground of the antecedent irregularity."

The following are the correct details supplied to me by the Swiss Government:—

On the 25th of last June the French Ambassador demanded the extradition of two Frenchmen, André Balmont and Ferdinand Courtis, commercial travellers, arrested at Geneva on charges of "*crime de faux et usage de pièces fausses*," in accordance with the terms of the existing Treaty of Extradition between France and Switzerland.

The Federal Council acceded to the request, and the prisoners were handed over to the French authorities on the 5th of July. On examination before the Judge d'Instruction at Lyons it was found that the original charges could not be sustained; nevertheless, they were remanded to prison and summoned before the Tribunal Correctional at Lyons on a charge of "*Abus de confiance et extorsion*." This being in legal classification a "*delit*" and not a "crime," is not included in terms of the Extradition Treaty; consequently the prisoner's counsel protested, and would not allow them to plead. They were withdrawn from the bar, but the trial proceeded and they were condemned "*en contumace*."

They appealed through their counsel to the Swiss Government, who instructed their Envoy at Paris, M. Kern, to make a reclamation on the subject.

In a note, dated the 31st August, M. Kern informs the Federal Council that previous to applying to the French Minister of Foreign Affairs he had made inquiries of the Minister of Justice, who informed him that instructions had already been issued, on the 23rd of August, to the authorities at Lyons to convey the two prisoners to the Swiss frontier and release them.

The Minister of Justice further told M. Kern, that incorrect statements had been published in a pamphlet in London, respecting this case, which would be refuted in the "Moniteur."

I have, &c.,

(Signed,)

E. A. J. HARRIS

(No. 28.)

Lord Stanley to Mr. Fane.

FOREIGN OFFICE, January 9th, 1867.

MY LORD,—Her Majesty's Government have been awaiting with some anxiety the observations which, as reported by Lord Cowley, in his despatch of the 20th of November, M. de Moustier proposed to offer, on the communication made to His Excellency by Lord Cowley, on the 18th of that month, respecting the case of M. Lamirande.

M. de Moustier, in the conversation recorded in that despatch, showed a disposition to demur to the view taken by Her Majesty's Government in regard to demands for extradition not being properly made by a Consular officer, and spoke of being unable then to discuss the question, whether the crime of which M. Lamirande was accused was or was not forgery.

Since that conversation M. Lamirande has been tried and convicted, and is understood to have appealed against the decision of the Court; but little more has been elicited from

the French Government than an expression of readiness to meet any official demand which might be addressed to it with a view to effect the release of M. Lamirande.

Although the Law Officers of the Crown, at any earlier stage of the discussion, expressed their opinion, as stated in my despatch to Lord Cowley of the 10th of November, that Her Majesty's Government could not demand, as of right, the surrender of M. Lamirande, I have, nevertheless, submitted the question to them again, on the strength of what passed between Lord Cowley and the French Minister, as reported in His Excellency's despatches of November 13 and 20, and of the 19th of December.

I have also placed before them the case of surrender of a prisoner many years since, on account of defect in regard to his extradition, as well as the still more recent case which occurred last summer, to which Admiral Harris refers in his despatch of the 28th of December, in order that they might consider whether such cases afforded any grounds on which a demand for the release of M. Lamirande could be supported.

I have not yet received the opinion of the Law Officers on these later references, and I am still expecting from you the particulars respecting the Swiss case of last year, into which you have directed M. Treite to inquire.

In the meanwhile, however, I should wish you to remind M. de Moustier of his conversation with Lord Cowley, of November 20, and inquire whether His Excellency has so fully informed himself on the points then brought to his notice as to enable him to explain the views of the French Government.

Her Majesty's Government are very anxious that any communications between the French Government and themselves on this question should be brought to a close, favorable, they trust, to M. Lamirande's release, before the meeting of Parliament, when the case is sure to be publicly discussed, both as regards the proceedings of the Colonial Government in surrendering the prisoner, and the retention of him in custody by that of France.

The latter point is the only one to be considered internationally, but the bearings of it on the general question of extradition are very important, and Her Majesty's Government much fear least, even though the retention of the prisoner in France may be strictly legal, and not susceptible of any complaint being made on the ground of disregard of international obligations, or even courtesies, the possibility of such a state of things resulting from a Treaty of Extradition may influence Parliament, not only to refuse to renew the Act of last Session, but even to require the Government to put an end, at all events, to the Treaty of 1843, if not all Extradition Treaties whatever.

Such a course would be fraught with much injury to the commercial interests of both countries, and it is in the hope that the necessity for taking it may not arise; that without waiting for the opinions of the Law Officers, as to making a formal demand, I have to instruct you again to see M. de Moustier on the subject, and in the same confidential form in which the question has hitherto been treated, endeavor to persuade him to recommend that M. Lamirande should be set at liberty.

I should wish to be informed, as soon as possible, in what state M. Lamirande's appeal now is, and when it may be expected to be decided.

I am, &c.,

(Signed,)

STANLEY.

(No. 29.)

Mr. Fane to Lord Stanley (Received, January 12).

PARIS, January 11, 1867.

MY LORD,—With reference to my despatch of the 4th instant, I have the honor to inclose, herewith, copy of a Report addressed to me by M. Treite on the Franco-Swiss extradition case referred to in your Lordship's despatch of the 31st ultimo, and on its bearings on the case of M. Lamirande.

I have now directed M. Treite to inquire into the exact state in which M. Lamirande's appeal is, and when a decision upon it may be expected, and to furnish me immediately with a report embodying the result of his inquiries.

I expect to have an opportunity to-morrow of bringing the case of M. Lamirande once

more before the Marquis de Moustier, in obedience to the instructions conveyed to me in your Lordship's despatch of the 9th instant.

I have, &c.,

(Signed,)

JULIAN FANE.

(Inclosure in No. 29.)

(Translation.)

M. Treite to Mr. Fane.

PARIS, January 11, 1867.

M. LE MINISTRE,—You have been pleased to direct me to make inquiry into a case of Extradition between France and Switzerland, a case which had probably occurred during the year 1866, and which might form a precedent for that of Lamirande.

The case had remained buried among the papers of the Chanceries belonging to the two countries, but, thanks to the introduction you gave me, the Minister of the Helvetic Confederation has made me conversant with the whole affair, and here it is.

In June, 1866, two Frenchmen, André Balmont and Ferdinand Courtis, who had fled to Switzerland, were arrested in the Canton of Geneva and given up on the demand of the French Ambassador at Berne.

These two individuals were accused of forgery and of uttering forged papers, crimes within the purview of the Extradition Treaty. The prisoners Balmont and Courtis were arraigned before the Court of Assize of the Rhone, sitting at Lyons. They were acquitted by the Jury on the charge of forgery.

The Procureur Général wished to try them before the Tribunal of Correctional Police for swindling and breach of trust, two charges of misdemeanor of which they were likewise accused.

But they opposed the attempt of the Procureur Général, and invoked the aid of both of the Swiss Federal authorities and of the Ministry of Justice. Having refused to appear before the Tribunal of Correctional Police, they were condemned through default or through contempt of Court. The Federal Council wrote, on the 24th of August, to the Swiss Minister at Paris, desiring him to remind the French Government that as the Extradition only referred to the crime of forgery, it was not competent to try Balmont and Courtis for other offences, unless indeed the accused gave their consent.

The Swiss Minister, before applying officially to the Minister for Foreign Affairs, made some unofficial inquiries at the Ministry of Justice, and he was told in reply that on the 23rd of August, even before the letter of the Federal Council was written, the Minister of Justice had of his own accord ordered the Procureur Général of Lyons to cause Balmont and Courtis to be reconducted to the frontier.

The Swiss Minister had, therefore, no further demand to make, and on the 31st of August he returned the documents to his Government.

Thus, in this case, there was no diplomatic intervention, and the "Daily News" was mistaken in mentioning this case as a precedent for that of Lamirande. Besides, the Minister of Justice, in causing *proprio motu* the two accused persons to be reconducted to the frontier, only conformed to the constant rule of law of which I have already in my preceding communication cited examples, and which is thus laid down in a Ministerial Circular of September 5, 1841:—

"It results from the principle that extradition cannot be granted for a misdemeanor—(*delit*)—that if an individual who has committed an act which is criminal in France is given up to the French Government to be tried for this act, and if at the same time he is accused of a misdemeanor, he must not be tried for that misdemeanor.

"The application of the principle is susceptible of some difficulties. It is clear that, if the misdemeanor stands alone, it will be easy to try the individual surrendered for the crime only.

"But in certain cases the misdemeanor is connected; besides, it often becomes, by reason of its connection, an aggravating circumstance. When these difficulties arise you will refer them to me, and I will let you know, together with my opinion, the precedent of my Department."

Such is the language held by the Minister of Justice to the Procureur Généraux: the accused persons can only be tried for the crimes that are provided for by Extradition Treaties.

This circular is very important. It sums up the whole practice, in matters of extradition, as it has ever been followed by the French Government.

I have found it impossible to get a copy; but, as it is very long, I am going to have it reprinted, and shall have the honor of sending you a copy, as well as one to the Swiss Minister, according to his request.

I think, then, that I am not rash in persisting in the opinion which I gave on the 10th of December last, namely, that there is no precedent applicable to the case of Lamirande.

Accept, &c.,
(Signed,) TREITE.

No. 30.

Lord Stanley to Mr. Fane.

FOREIGN OFFICE, January 12, 1867.

SIR,—Her Majesty's Government have given their best consideration to and have consulted the Law Officers of the Crown on Lord Cowley's report, contained in his despatch of the 19th of December, of his conversation with M. de Moustier respecting the case of M. Lamirande, and they gather from it that unless a formal application for the surrender of M. Lamirande is made to the French Government, that object will probably not be effected.

Her Majesty's Government would have much preferred that the question should have been set at rest, as it has hitherto been discussed, by informal rather than by official representation on their part; but as the French Government seem to consider the latter course preferable, I can no longer hesitate to say that although even now Her Majesty's Government are advised that they cannot demand the surrender of M. Lamirande as a matter of right, yet it is their desire that you should at once make an official request for his surrender.

You will observe that Her Majesty's Government contend that the extradition of M. Lamirande was unauthorized by the Treaty of 1843, and by the Statute giving effect to that Treaty, on two grounds.

First, that the demand made for his extradition was not made through the intervention of such a Diplomatic Agent as is contemplated by the Treaty, and the British Statute confirming it, and,

Secondly, that the offence charged against M. Lamirande was not the offence of "*faux*," or forgery contemplated by the Treaty.

As regards the first point, M. de Moustier, in his conversation with Lord Cowley, reported by the latter in his despatch of the 20th of November, seemed disposed to contend that the French Consul General was, under the circumstances, an accredited Diplomatic Agent, within the meaning of the Treaty and Statute.

The Governor General of Canada, by appearing to treat the French Consul General as an authorized Agent, within the meaning of the Act, certainly made himself a party to such a construction.

It is to be observed, however, that the British Statute reproduces the term "Diplomatic Agents," which alone appears in the Treaty, and limits to persons so qualified the right to demand extradition under the French Treaty. If a more comprehensive significance had then been considered to be attached to that term, there was no reason why it should not have been set forth in the Statute, in the same manner as in the Statute passed on the self-same day, namely, the 22nd of August, 1843, for giving effect to the Extradition Article of the Treaty with the United States of the previous year. No mention was made of the specific character of the officer who should make the demand for extradition, but only that the requisition should be "made by the authority of the United States," the Treaty specifying in general terms, "Ministers, officers, or authorities," as the channels through which requisitions should be made, and not, as in the case of the Treaty with France, defining those authorities as Diplomatic Agents. In the absence, therefore, of a more comprehensive term than that of "Diplomatic Agents" in the British Statute, it is impossible for Her Majesty's Government to accede to M. de Moustier's view that for the purposes of demands of extradition a Consular Agent can be recognized as a Diplomatic Agent, under the Treaty of 1843.

The Act of Congress of 1848, giving effect generally to Treaties of Extradition concluded or to be concluded with foreign Powers by the United States, merely specifies that requisition shall be made by the "proper authorities" of the foreign governments, and that term would seem sufficiently large to include others than Diplomatic Agents, although the Treaty between France and the United States specifies Diplomatic Agents alone as the medium of requisition. But the British Statute admits of no such comprehensive construction.

As regards the second point arising in the case, Her Majesty's Government consider that the crime with which M. Lamirande is charged does not amount to forgery according to British law, and therefore does not do so according to the mind of the British negotiator of the Treaty, or the intention of the British Legislature when giving effect to it.

The French Government are understood to hold that the crime comes within the term "*faux*," employed in the French version of the Treaty, as the equivalent of the term "forgery" employed in the English version. Each government may be right in their respective contentions, as to the import of terms used in the several languages, but when so material a difference exists between the two parties to a Treaty, it may not be unreasonable in the party who will suffer by an adverse construction to press the other party not to insist on its own.

But even admitting, with the French Government (which, however, Her Majesty's Government are by no means prepared to do), that under the exceptional circumstances the requisition of a consular agent for the surrender of a prisoner, under the Extradition Treaty may be accepted in lieu of that of a diplomatic agent, Her Majesty's Government must observe that no such exceptional circumstances can be pleaded in the case of M. Lamirande.

His crime, whatever it may be, was not committed in a French colony, nor was the warrant for his apprehension issued by a French colonial magistrate, and conveyed direct to Canada without passing through France; but the crime was committed in France, the warrant was issued by a magistrate in France, and it was probably conveyed by the person who was the bearer of it through England, or at all events might have been so conveyed without inconvenience or sensible delay. There was therefore no necessity for disregarding, in this case, the usual practice of applying to Her Majesty's Government for the extradition of M. Lamirande, under that warrant, through the French Diplomatic Agent in England:

On all these grounds, therefore, Her Majesty's Government trust that the French Government will be disposed to view with favor the application which I have now to instruct you officially to make to them for the surrender of M. Lamirande.

I am, &c.,

(Signed,) STANLEY.

(No. 31.)

Mr. Fane to Lord Stanley (Received, January 14).

(Extract.)

PARIS, January 13, 1867.

I had a long conversation yesterday with the Marquis de Moustier, on the subject of the extradition of M. Lamirande.

The result of that conversation was a declaration on the part of His Excellency of the sincere desire of the Emperor, and of the Imperial Government, to do strict justice in this case, and to prevent its becoming the subject of unpleasant controversy between the two Governments.

The views of Her Majesty's Government, M. de Moustier said, had hitherto been submitted to the Imperial Government in too vague a form to admit of a specific reply being given to them.

If these views, together with any application which might be founded on them, were formally submitted in writing to the Imperial Government, they should be considered with every desire to satisfy scrupulously the ends of justice.

His Excellency added, however, that if the release of M. Lamirande should be demanded as a matter of favor, it would be impossible for the Imperial Government, in view of their responsibility to the law, and to public opinion, to accede to it.

But if it was based on claims of right and justice, these claims would be examined with every desire to satisfy them if they should prove to be legally admissible:

I received this morning your Lordship's despatch of yesterday's date, instructing me to make an official application for the release of M. Lamirande to the Imperial Government. I have accordingly drawn up a draft of note to M. de Moustier, copy of which I have the honor to inclose.

I shall keep my note to M. de Moustier in my possession till to-morrow evening, in order that your Lordship, should you desire any alteration to be made in it, may instruct me to that effect by the telegraph.

(Inclosure in No. 31.)

Draft of Note from Mr. Fane to M. de Moustier.

PARIS, January, 1867.

M. LE MINISTRE,—Your Excellency, in conversation with Earl Cowley and with myself, on the subject of the extradition of M. Lamirande, has expressed a desire that the views of Her Majesty's Government upon this case, and any application which may be founded upon those views, should be formally addressed to the Imperial Government, in a written statement.

In accordance with that desire, and in obedience to the instructions of Her Majesty's Government, I have now the honor of submitting such a statement to Your Excellency.

Her Majesty's Government contend that the extradition of M. Lamirande was unauthorized by the Treaty of 1843, and by the Statute giving effect to that Treaty, on two grounds.

First, that the demand made for his extradition was not made through the intervention of such a Diplomatic Agent as is contemplated by the Treaty and the British Statute confirming it; and,

Secondly, that the offence charged against Lamirande was not the offence of "*faux*" or forgery, contemplated by the Treaty.

As regards the first point, Your Excellency, in your conversation with Lord Cowley, seemed disposed to contend that the French Consul General was, under the circumstances, an accredited Diplomatic Agent within the meaning of the Treaty and Statute.

It is to be observed, however, that the British Statute reproduces the term "*Diplomatic Agents*," which alone appears in the Treaty, and limits to persons so qualified the right to demand extradition under the French Treaty.

If a more comprehensive significance had then been considered to be attached to that term, there was no reason why it should not have been set forth in the Statute, in the same manner as in the Statute passed on the self-same day, viz., the 22nd of August, 1843, for giving effect to the Extradition Article of the Treaty with the United States of the previous year. No mention was made in that Statute of the specific character of the officer who should make the demand for extradition, but only that the requisition should be "*made by the authority of the United States*;" the Treaty specifying in general terms, "*Ministers, officers, or authorities*," as the channels through which requisitions should be made, and not, as in the case of the Treaty with France, defining those authorities as Diplomatic Agents.

In the absence therefore of a more comprehensive term than that of "*Diplomatic Agents*" in the British Statutes, it is impossible for Her Majesty's Government to accede to Your Excellency's view that, for the purposes of demands of extradition, a Consular Agent can be recognized as a Diplomatic Agent under the Treaty of 1843.

The Act of Congress of 1848 giving effect generally to Treaties of Extradition concluded, or to be concluded, with Foreign Powers by the United States, merely specifies that requisitions shall be made by the "*proper authorities*" of the foreign Governments, and that term would seem sufficiently large to include other than Diplomatic Agents, although the Treaty between France and the United States specifies Diplomatic Agents alone as the medium of requisition. But the British Statute admits of no such comprehensive construction.

As regards the second point arising in the case, Her Majesty's Government consider that the crime with which M. Lamirande is charged does not amount to forgery according

to British Law, and therefore does not do so according to the mind of the British negotiator of the Treaty, or the intention of the British Legislature when giving effect to it.

The French Government are understood to hold that the crime was within the term *faux*, employed in the French version of the Treaty as the equivalent of the term *forgery* employed in the English version.

Each Government may be right in their respective contentions as to the import of terms used in the several languages, but when so material a difference exists between the two parties to a Treaty, it may not be unreasonable in the party who will suffer by an adverse construction, to press the other party not to insist on its own.

But even admitting with the French Government (which, however, Her Majesty's Government are by no means prepared to do), that under exceptional circumstances the requisition of a Consular Agent for the surrender of a prisoner under the Extradition Treaty may be accepted in lieu of that of a Diplomatic Agent, Her Majesty's Government must observe that no such exceptional circumstance can be pleaded in the case of M. Lamirande. His crime, whatever it may be, was not committed in a French colony, nor was the warrant for his apprehension issued by a French Colonial Magistrate and conveyed direct to Canada without passing through France; but the crime was committed in France, the warrant was issued by a Magistrate in France, and it was probably conveyed by the person who was the bearer of it through England, or at all events, might have been so conveyed without any inconvenience or sensible delay. There was, therefore, no necessity for disregarding, in this case, the usual practice of applying to Her Majesty's Government for the Extradition of M. Lamirande under that warrant through the French Diplomatic Agent in England.

On all these grounds, therefore, Her Majesty's Government trust that the French Government will be disposed to accede to the application which I have now the honor of addressing to your Excellency for the surrender of M. Lamirande.

I avail, &c.,

(Signed,) JULIAN FANE.

(No. 32.)

Lord Stanley to Mr. Fane.

FOREIGN OFFICE, January, 14, 1867.

I have to acquaint you, in reply to your despatch of the 13th instant, that I approve of the note which you propose to address to M. de Moustier respecting the case of M. Lamirande.

I am, &c.,

(Signed,) STANLEY.

Mr. Fane to Lord Stanley (Received, January, 16).

(Extract.)

PARIS, January 14, 1867.

I had the honor of receiving, this afternoon, your Lordship's Telegram, informing me that the draft of note which I proposed to address to the French Government, upon the case of M. Lamirande, was approved; and I accordingly sent my communication to the Marquis de Moustier without delay.

Your Lordship will perhaps be good enough to direct that the date "14th of January," shall be attached to it. It will then be identical with the note which I have addressed to the Marquis de Moustier.

(No. 34.)

Mr. Fane to Lord Stanley (Received, January 16).

PARIS, January 15, 1867.

MY LORD,—With reference to my despatch of the 11th instant, stating that I had requested M. Treite to inquire into the exact state in which M. Lamirande's appeal is, I have the honor to inclose, herewith, a copy of a report which I have just received from that gentleman.

I have, &c.,

(Signed,) JULIAN FANE.

(Inclosure in No. 34.)

(Translation.)

M. Treite to Mr. Fane.

M. LE MINISTRE,—I went yesterday to the office of the Procureur-Général at the Court of Cassation, to learn whether Lamirande has appealed against the sentence which has condemned him to ten years of solitary confinement (*"réclusion"*). The reply having been in the negative, I am enabled, on my return, to give a definite answer to the question which you have been pleased to put to me, and to tell you that the conviction of Lamirande is definitive, and that it is no longer susceptible of any recourse to law.

The convict has, then, acquiesced in the degrading penalty inflicted on him. He might have been condemned to twenty years' penal servitude (*"travaux forcés"*) which is the penalty for forgery; but the jury having given Lamirande the benefit of a declaration of extenuating circumstances, the Court was obliged to go a step lower in the scale of penalties, and to pronounce sentence of solitary confinement only, of which the maximum is ten years.

It is no one's business to fathom the motives which have determined Lamirande not to appeal, but it may, however, be presumed that he thought of the future. In fact, if through some informality, or even through a false description of the culpable acts improperly defined as forgery, as the defenders of the accused have pleaded and maintained, the sentence had been quashed and the accused sent before another jury, he might perhaps not have been able to obtain a second time a declaration of extenuating circumstances, and in this case he would have been condemned to hard labour and sent to Cayenne. Thus it is generally said that Lamirande was very well treated by the jury of a country where his family occupied an honorable position.

As to the definition of crimes of forgery given to the acts imputed to Lamirande, they do not appear to fall within what the law of England calls forgery, which always supposes a material act, a palpable and physical alteration. But the Procureur-Général has maintained (and the jury have taken the same view) that these acts constitute the crime of forgery according to the penal law of France.

In fact, in France there are two distinct kinds of forgery, the material and the moral (*intellectuel*).

Material forgery results from a falsification or alteration, proved and physically demonstrated.

Moral forgery only results from the alteration or falsification of the substance or the contents of a document not materially falsified; for example, drawing agreements different from those settled by the contracting parties, or declaring as true things which are false.

This distinction in the crime of forgery is founded upon this axiom: "*Falsitas est fraudulosa veritatis mutatio et in alterius præjudicium facta.*"

This definition, admitted by the French criminal lawyers, has passed into jurisprudence. The Court of Cassation has itself defined forgery: "Alteration of the truth with a criminal intention which has prejudiced or could have prejudiced another"—(Decree of July 17, 1835).

If Lamirande had appealed, the Court of Cassation would probably have applied this maxim of law to him, and would have rejected his appeal.

Be good enough to excuse me for entering into all these details; I have only given them in order to enable you to form an opinion on the verdict of the jury, who, notwithstanding the absence of an actual alteration in the Bank accounts, did not the less declare Lamirande guilty of forgery.

Allow me to add a few more words. I have heard it said that England might be justified in reclaiming the person of Lamirande, on the ground that the acts imputed to the accused, and for which he was surrendered, did not come within the terms of the Treaty of 1843; that the crimes provided for in the Treaty ought to have the same character in the two countries; and, that Lamirande, according to the law of England, was not guilty of the crime of forgery, but only of the crime of theft, since he has not actually altered the Bank accounts.

The argument, if produced, has no chance of being admitted. It would be replied that Treaties must be interpreted according to the common intention of the contracting parties. If, at the time of drawing up the Treaty an interpretation had to be made, England

would have answered, that she understood that her subjects accused of forgery should be delivered up, although the law of France does not punish, and does not consider as forgery several alterations and material falsifications committed in passports, march-routes, and certificates of exoneration from military service. England would only have looked at the character of the crime according to the law of England, and she would have replied that she was prepared to surrender French subjects regularly accused of the crime of forgery such as the law of France defines and punishes as forgery, without distinguishing between material and intellectual forgery, admitted by the penal theory in France, a distinction which is a matter for internal legislation, beyond the competence of foreign Governments.

France will maintain that, in spite of the abnormal circumstances which have accompanied the extradition of Lamirande, she has nothing to do with acts and laws which are beyond her competence, and that the accused, from the moment that he was regularly accused of the crime of forgery, ought to have been surrendered to her, and has been justly surrendered. Treaties of Extradition are not made in the interest of criminals, but against evil-doers. These cannot appeal to them; the co-contracting Governments alone are qualified to interpret them, and to prevent their violation, the one by the other respectively. The French Government has violated neither the law of France nor that of England. If Lamirande had been acquitted by the jury on the charge of forgery, it would have caused him to be reconducted to the frontier, without trying him for theft and abuse of confidence.

I have thought it my duty to submit these considerations to you, which are current in France.

I doubt whether a demand, founded on the violation of the law of England by English functionaries, would be entertained.

I have, &c.,

(Signed,)

TREITE.

(No. 35.)

Mr. Mackenzie to Lord Stanley (Received, January 30).

77, GRESHAM HOUSE, OLD BROAD STREET,

January 29, 1867.

MY LORD,—I am sorry again to trouble your Lordship on this case, but having sent out to our correspondents and clients at Montreal, the particulars of the trial in France, and with all the facts connected therewith, up to the 8th December, I have just received a reply to that communication, and am urgently requested to draw your Lordship's attention to the facts set out in the extract from his letter, which I now inclose.

My attention has been drawn to a paragraph in the *Standard* of Saturday last, to the effect that the *Gazette des Tribunaux* says, "it is asserted that the English Government has made an application for the surrender of Lamirande." Will your Lordship be kind enough to state whether there is any foundation for this paragraph, and how the matter stands at present?

I have again to urge upon your Lordship the great importance of our Ambassador making a further application to the French authorities for M. Lamirande's release.

I have, &c.,

(Signed,)

J. H. MACKENZIE.

(Inclosure in No. 35.)

Extract from a Letter of Mr. Doutre, dated December 28, 1866.

I hope you have already taken steps for drawing the attention of your Government to the fact, that Lamirande has been tried for facts different from those for which he was extradited. The trial has not brought out the shadow of the facts for which extradition was asked. It has never even been attempted to make out that Lamirande had ever made false entries in the books of the Bank of France. The British Government have as much right to ask his release as if he had been tried for embezzlement or robbery. The trial raises a totally new issue between the two Governments, and the question on which Lord Stanley has abandoned the demand of restoration has in no way prejudiced the ground on which the prisoner may now be claimed.

The doctrine laid down by the Attorney General, before the Assizes at Poitiers, viz.: That the Court must try the prisoner whom it finds before it, no matter how he has been brought there,—that doctrine is the direct negative of the position taken by the Lord Chancellor before the House of Lords on the 19th July last, when he said, “It has been supposed that the French Government are extremely desirous of continuing the Extradition Treaty for political purposes, because they may, by making criminal charges against particular individuals, get possession of such persons, and then try them in France for political offences. There could not be a more mistaken notion, than that any such law prevails in France. On the contrary, there is a strict law under which no person delivered up, in consequence of an Extradition Treaty, can be tried for any offence other than that in respect of which he was so delivered up. If acquitted, although he may be charged with twenty other offence, he is allowed to leave France, and to return to the country whence he was sent.”

This last doctrine has been positively denied by the Attorney General, though it is true the Court limited the trial to the charge of “*faux*.” But it turns out to be upon facts not mentioned at all in the demand of the French Consul General, in the warrant originating the prosecution, or in the warrant of extradition. It seems, then, that there is a clear case for the intervention of the British Government.

(No. 36.)

Mr. Egerton to Mr. Mackenzie.

FOREIGN OFFICE, January 31, 1867.

SIR,—I am directed by Lord Stanley to acknowledge the receipt of your letter of the 29th instant, and its inclosure, with reference to the case of M. Lamirande; and I am to state to you in reply, that this matter is still under the consideration of Her Majesty's Government, and that, in its present stage, they cannot give you any more detailed reply to your communication.

I am, &c.,
(Signed,) E. C. EGERTON.

(No. 37.)

Mr. Fane to Lord Stanley (Received, February 2).

PARIS, February 1, 1867.

MY LORD,—I have the honor to inclose copy of an article from the *Gazette des Tribunaux*, on the case of M. Lamirande.

I have, &c.,
(Signed,) JULIAN FANE.

(Inclosure in No. 37.)

(Translation.)

Extract from the Gazette des Tribunaux.

EXTRADITION OF LAMIRANDE.—We have announced, as a rumour which has been generally spread about for sum days past, that the English Government was about to claim from France the restoration of Lamirande, whose extradition had been decreed by the judicial authority of Canada.

The news is true. The Ministry of Justice has the English claim before it. And if we believe what has transpired respecting this matter, the English Government, alleging that the extradition was not regularly granted, urges two reasons in support of their demand.

The first is, that according to the Treaty of 1843, between France and England, extradition can only be granted upon the demand of a diplomatic agent. Now, the demand for Lamirande's extradition was made by the French Consul General in Canada. Consuls are commercial and not diplomatic agents. According to the English Government, the demand for Lamirande's extradition should not have been received, on account of the character of the agent transmitting it.

The second reason put forward by England to show the irregularity of Lamirande's extradition is that the acts laid to his charge, even if constituting the crime of forgery according to French law, do not amount to the same crime in English law, and that by the terms of the Treaty of 1843, England has only bound herself to surrender persons accused of what, according to English law, would amount to one of the crimes enumerated in the Treaty. Now, English law only recognizes as forgery an actual alteration in anything written. In contradistinction to Article 47 of our Penal Code, it does not consider the fabrication of agreements, directions, bonds, or acquittances to constitute the crime of forgery. So that in England Lamirande would not have been considered guilty of forgery. The conclusion drawn therefrom by the English Government is, that the extradition ought not to have been granted, and they demand the rendition of Lamirande.

If it be true that in claiming the restoration of Lamirande, England wishes to recur to the question of an extradition voluntarily and freely granted by herself, it seems to us hardly creditable that she can found her demand on the two reasons on which it is pretended she relies, for they repose on no solid basis, and could not resist a serious examination.

The surrender of an accused person, when claimed by a foreign power, is an act of sovereignty. This act of sovereignty can be carried out by a government without having previously concluded a special treaty with the power claiming the culprit. Although we might have no treaty of extradition with England, yet, were French criminals to seek refuge in the United Kingdom, we could ask for their extradition, and England could give them to us for trial in France; for the right of granting extradition belongs to each Government by virtue of its sovereignty. It is not extradition treaties which confer upon the power of the country where the culprits have taken refuge the right of surrendering them to their own Government. The only object of these treaties is to facilitate the relations of the contracting powers, and to record that the reciprocally bind themselves to use towards each other, in certain cases and in a certain manner, the right which belongs to them of granting extraditions.

But because a Government shall have entered into an arrangement with another Power to surrender criminals accused of such or such crimes when claimed in such or such manner, by diplomatic means for instance, it does not follow that this Government is unable, should it think proper, to consent to the extradition of a person accused of a crime not provided for in the Treaty, even if the application be made in a manner other than that stipulated.

England had, therefore, full power to surrender Lamirande even for a crime not recognized as such by the English law, and even although the demand for extradition was presented by some one not a Diplomatic Agent. When, therefore, in the exercise of her right, she has granted an extradition, whether in a case provided for by a Treaty, or whether in case beyond the provisions of a Treaty, is it allowable for her to recall the accomplished fact, and modify the act of sovereignty emanating from herself, by which she has effected the extradition? What is still more singular in the British Government's demand for the rendition of Lamirande is, that that demand would involve the contradiction of those principles on which they rely, and of other principles appealed to previously by one part of the Members of the English Parliament, and even by some publicists of our own country.

By their demand the English Government wishes to recall an act which emanated from themselves or from their agents; they wish to revise this act on the plea that those who ordered it committed a legal error. This is for the Royal power, the highest representation of the administrative power, to declare that its inferior agents have been deceived, that they have taken wrong proceedings, and to wish to substitute a decision different from that which had at first been taken.

If the English Diplomatic Agents, acting in the name of the Queen, demanded an individual, surrendered by their Government to a foreign Power, affirming that the Queen and her Cabinet, *i. e.*, the Executive Power of England, regard his extradition as having been improperly granted, and that they have resolved to cancel it, it is because that for the English Government itself the fact of granting, refusing, or cancelling an extradition, is an act of sovereignty.

This is not precisely the same doctrine as that hitherto maintained by the English

and by the enthusiastic administrators of the constitution and laws of Great Britain. It was said that among our neighbors extradition was a judicial act, and not an administrative measure. In demanding Lamirande, the English Government would give the final blow to this doctrine; for if Lamirande has been given up in virtue of a judicial decision, how can the administrative power arrogate to itself the right to judge, appreciate and revise that judicial decision, which has acquired the authority of a matter adjudged?

Again, if the English Government believes that, in the countries under its rule, extradition is a judicial act, there is no explanation for the talked of demand.

For, it is to be noticed, according to what is said of this demand, that no question is raised on these points advanced before the French tribunal in the interest of Lamirande. Thus, the English Government does not complain of a judicial decision which was not definitive, having been executed in spite of an appeal, or the right of appeal, by Lamirande. We could understand, to a certain point, the executive power of a country which gives executive force to the decisions of justice, complaining of the execution of a decision to which it has not given this executive force; or that the executive force, which can only emanate from itself, has been erroneously given to the sentence of a judge. We may reply to a demand placed on these pleas, that it was the business of the Government which makes the demand to watch the execution of the acts of the tribunals or of the administrative agents in its territory, but that, the acts once carried out can no longer be revised, since the persons to whom they apply are no longer within its jurisdiction. But, we repeat, in this case the demand might be intelligible to a certain point; whereas in the demand, as it is at present framed, England avows that she has no formal objection to make against the decision of the Judge who ordered the extradition—she only pretends that the Judge has given a wrong decision, that he ought not to have entertained the demand.

What becomes then of that grand principle of the authority of an adjudged matter, which is acknowledged, proclaimed and respected by all governments?

Does the Cabinet of London wish to pretend that the extradition of Lamirande has been granted in contempt of English law; that in the country under the sway of the English Crown extraditions can only be granted in cases provided for by law; that the law which regulates this matter of extradition with respect to France is the Bill which approved the Treaty of 1843, and that this Bill does not permit the granting an extradition on the demand of a consul for a crime which the English law does not recognize as a forgery?

To this it is easy to answer, that foreign powers who demand and obtain the extradition of criminals who have taken refuge in England, are not obliged to trouble themselves with the question whether the English authorities who decided on the extraditions have observed, or not, the special laws of their country.

The English Minister cannot, indeed, maintain that there has been a violation of the principles of international law, for Lamirande has not been taken by violence or fraud from British soil.

We can understand a diplomatic demand with reference to an act which has been done against the will or in contempt of the rights of the power making the demand. But there is hardly any explanation for a demand by a government with reference to an act that emanates from itself. If the extradition of Lamirande ought not to have taken place, according to English law, its consent ought not to have been given. But extradition, once effected, it cannot possibly be retracted.

French justice has now pronounced sentence. It has condemned Lamirande for the crime of forgery. If, after the decision of the French jury, it should be necessary to restore Lamirande to liberty, to send him back to England, there to enjoy with impunity the fruits of his misdeeds, this would be a public scandal. It is only with great reluctance that the French Government can entertain the demand of England. Happily there exists in the treaties no stipulation which obliges France to restore Lamirande.

But if, through some impossibility, France found herself forced to make this restitution, this would be the most manifest condemnation of the Treaty of 1843.

Up to the present time this treaty had remained a dead letter. The French Government had not been able to obtain any extraditions from England.

Here, however, an extradition has been granted, on account of a crime that had

strongly excited public opinion. The culprit surrendered to French justice has been condemned by a jury of his country, and now we must restore him to England, in order to hinder him from undergoing his penalty !

This Treaty of 1843, between England and France, which has been denounced by our Government, and which has since only been provisionally prolonged, six months at a time, ought to be definitively adjudged. Even while appealing to it in cases which were expressly provided for in it, France, previous to 1866, was not able to obtain the extradition of accused persons who had taken refuge in England. Matters of fact have always hindered the demands for extradition of accused persons from succeeding. Neither was it possible to obtain the extradition of persons who had taken refuge in British possessions, on account of a strict legal technicality, derived from the fact that the Treaty only mentioned accused and not condemned persons. So that, whether from considerations of fact, or from considerations of law, accused and condemned were able to find impunity in England.

In this instance, were the demand admitted, it would be necessary that the operation of justice should be stopped again on a fresh ground, for the result would be impunity for accused persons delivered up by England, and condemned after their extradition by our tribunals.

Would there not, then, be occasion to acknowledge that the Treaty of 1843, has been tried long enough for the dignity of France ?

(Signed,) CH. DUVERDY.

(No. 38.)

Mr. Fane to Lord Stanley (Received, February 27).

(Extract.)

PARIS, February 25, 1867.

The brother of M. Lamirande called upon me this day, for the purpose of placing in my hands two letters addressed to Earl Cowley, copies of which I have the honor to inclose. The one is from M. Lamirande himself, withdrawing the application made by him to Earl Cowley, in September last, that Her Majesty's Government would demand his surrender by the French Government; the other, which is signed by the father and brother of M. Lamirande, transmits his letter and approves its contents.

M. Lamirande's brother, in delivering these letters to me, gave expression to the strong desire entertained by his family to put a term to the unhappy notoriety which attached to their name, by causing all further action in his brother's case to be abandoned.

I told him that I would acquaint your Lordship with the contents of the letters he had placed in my hands.

(Inclosure 1 in No. 38.)

MM. G. C. and C. S. Lamirande to Earl Cowley.

(Translation.)

CHATELLERAULT, February, 1867.

M. L'AMBASSADEUR,—I have the honor to transmit to you herewith a letter from my son, Ernest Lamirande, in which he withdraws the request which he had addressed, in September last, to your Excellency, with the object of his surrender being claimed by the Government of Great Britain.

I am desirous myself of addressing this declaration to your Excellency, in which my family and I record with satisfaction the desire of my unhappy son to spare us the continuation of painful emotions by putting an end to the disgraceful notoriety of which our name has been the subject.

Moreover, we should with sorrow have seen him separate himself from us whose influence over him cannot be otherwise than salutary. We should have feared that, restored to liberty, he would, perhaps, have turned it to account in such a manner as would have shut out all hope for the future of his reinstatement in his former position.

It is then with our concurrence that he recalls his request, and that he, moreover, freely and quite spontaneously (I am glad to do him this justice) gives up the advantages

of his restoration to liberty which the Government of Great Britain might have succeeded in obtaining from the French Government.

My youngest son, who signs this letter with me, fully joins in the sentiments which it expresses.

I have, &c.,
(Signed,) “

C. G. LAMIRANDE.

C. S. LAMIRANDE.

(Inclosure 2 in No. 38.)

M. E. S. Lamirande to Earl Cowley.

(Translation.)

Fontevault, February 19, 1867.

M. L'AMBASSADEUR,—On my arrival from Canada, in the month of September last, I had the honor of addressing to your Excellency, from Paris, a request, with the view of inducing the Government of Great Britain to claim my surrender from the French Government, and have me set at liberty.

Having decided to submit in every way to the judicial decision of my country, I now formally withdraw my request, and beg you to have the goodness to consider it as null and void.

This determination, which I have formed after mature reflection, is dictated to me by repentance for my crime, and still more by affection for my family, whose interest bids me put an end to the unhappy notoriety to which I have too long subjected their name.

Have the goodness, M. l'Ambassadeur, to transmit the present declaration to Her Britannic Majesty's Government.

I have, &c.,
(Signed,) “

E. S. LAMIRANDE.

(No. 39.)

Mr. Fane to Lord Stanley (Received, March 4).

Paris, March 3, 1867.

MY LORD,—I have the honor to forward herewith to your Lordship, copy of a despatch and its inclosures, which I received last night from the Marquis de Moustier, in reply to the note I addressed to His Excellency on the 14th of January last, conveying an application on the part of Her Majesty's Government for the surrender of M. Lamirande:

M. de Moustier commences his despatch by recording a formal declaration made by M. Lamirande to the Imperial Government, that he voluntarily renounces all claim to his surrender, and that he wishes to remain in France to undergo the punishment awarded to him. His Excellency transmits to me the written declarations which establish this fact, and states that Her Majesty's Government will probably consider that these documents should put an end to the discussion of which M. Lamirande is the object.

M. de Moustier is, however, of opinion that it may be useful to examine the judicial questions raised by Her Majesty's Government, and he proceeds accordingly to a categorical consideration of them. The conclusions at which His Excellency arrives may be thus summarily stated:—

1. That the omission to demand the extradition through a Diplomatic Agent, even if such a course were invariably followed, cannot be invoked, after the fact, to annul the extradition. That such demands are in certain cases made by Great Britain herself through other than a Diplomatic Agent.

2. That, if the crime for which Lamirande was surrendered does not constitute “forgery,” according to the English law, the doctrine affirming this proposition has not yet been established.

3. That the decision of Judge Bréhaut argues the regular application of the Treaty, and that no argument can be sustained on the pretended right of appeal from his judgment.

4. That Lamirande, before the Court of Assize of La Vienne, accepted in principle the jurisdiction of his country.

His Excellency concludes by expressing the hope of the Emperor's Government, that Her Majesty's Government will appreciate the considerations embodied in his despatch,

and will acknowledge that they are just in principle ; since, in point of fact, Lamirande having formally declined to take advantage of the results that would accrue from his surrender, the question no longer possesses any but a theoretical interest.

I have, &c.,

(Signed,)

JULIAN FANE.

(Inclosure 1 in No. 39.)

M. de Moustier to M. Fane.

(Translation.)

PARIS, March 1, 1867.

SIR,—You did me the honor of writing to me on the 14th of January last, to request, in the name of the Government of the Queen, the surrender of the condemned prisoner Lamirande, as having been unduly given up to French justice.

When I was on the point of answering that communication, the Minister of Justice informed me that Lamirande had just written of his own accord to the Procureur-Général of Poitiers, to declare that he renounced all claim to his surrender. Since then he wrote to M. Baroche to renew that declaration in terms still more explicit ; and I learn that his brother recently called at the Embassy in order to ratify and explain to you the purport of the convicted prisoner's declarations, of which he was the bearer. There can be no doubt, therefore, as to the formal wish of Lamirande to remain in France to undergo his sentence, and the British Government will probably consider that the documents which establish that intention should put an end to the discussion of which he is the object.

Nevertheless I do not believe it useless to examine the legal questions raised by your communication.

The demand of the Queen's Government is based on two grounds :—

First, That the application for Lamirande's extradition was not made through the intervention of a Diplomatic Agent, such as is required by the Treaty, and by the British Statute giving effect to the Treaty.

Secondly, That the crime for which Lamirande was given up did not constitute the crime of forgery ("*faux*,") contemplated by the Treaty.

In regard to the first point, we allow willingly that the text of the Treaty only mentions Diplomatic Agents ; but ought it to be interpreted in a sense absolutely excluding the competency of agents placed in a similar position to that of the French Consul General at Quebec ? If such an interpretation should prevail, it could only reveal a new and lamentable omission in the Treaty of 1843 ; and in regard to this I must first call to mind that in point of fact, in the present instance, the persons charged with the pursuit of Lamirande, who were the bearers of the warrant issued against him, could not have requested, on their way through England, as your letter supposes, the intervention of the French Ambassador in London, inasmuch as at that time the accused had fled, not to British territory but to the United States. The same persons afterwards, like the fugitive, went over direct from Federal soil into Canada, and it was the prompt requisition alone, addressed by our Consul General to the Governor of that Colony, which could have made the extradition possible.

That incident, on the contrary, shows how indispensable, in cases of urgency, the action of Consular Agents may be, and at the same time the necessity of an interpretation breathing, above all things, that spirit of practical conciliation which should preside over the execution of international acts.

Besides, an extradition granted without a request made through a diplomatic channel has nothing in itself opposed to the practice followed under certain circumstances by Great Britain either towards France or other countries.

To this day extradition is carried out in French and English Colonies on the simple request of the Governor, without recourse having been made to a diplomatic channel, and without the British Government ever having protested against that way of proceeding.

Recently, in 1863, England entered into an agreement with Italy respecting Malta, whereby applications for extradition could be made by Consular Agents.

Lastly, the clause of the Anglo-American Treaty of 1842, which refers to extraditions between the two countries, leaves it to be supposed, as you allow, that the power of requesting the surrender of criminals is by no means limited to Diplomatic Agents, properly

so called. Your letter, it is true, invokes especially in support of the opinion which would exclude the intervention of French Consuls, the terms of the statute passed on the 22nd of August, 1843, for carrying into effect the Anglo-American Treaty—terms more comprehensive than those of the statute passed the same date to give force of law to the Anglo-French Treaty; and you deduce from the discrepancies of text which result from this comparison that the intention of the negotiators of the two Treaties must have been, in the one case, to admit the intervention of Consuls, and in the other to shut them out.

In our opinion the discrepancies in the text which exist between the two statutes and the two Treaties are explained by reasons of an opposite nature, but of which neither admits of the supposition that the contracting parties intend to admit Consuls in the one case and to exclude them in the other.

In fact, the Anglo-American Treaty, is anterior by eight months to the Anglo-French Treaty, and if the two statutes, although of the same date, differ in their wording, it is doubtless because it was intended to frame each in harmony with the terms of the Treaty to which it refers. As regards the discrepancies of text which exist between the Treaties themselves, the article of the Anglo-American Treaty does not figure in a special Extradition Convention. This article, casually introduced into a Boundary Treaty with Canada, concluded at Washington, designates, in fact, generally, the authorities of each country who can properly demand extradition, whilst all the specific Treaties on this subject, concluded by England with other Powers, France, Russia and Denmark, use the expression "Diplomatic Agents." But this form of expression can have but one meaning; for what reason could be invoked to justify the admission of the Consuls of the United States whilst those of other Powers were excluded?

But even if we suppose that the Treaty of 1843, by the use of the words "Diplomatic Agents," intended to lay down an invariable rule, it would not follow, after the accused has been handed over, and above all after foreign justice had pronounced its decision, that the extradition should be annulled on account of that irregularity.

Whilst placing ourselves with the Government of the Queen, upon the ground of strict right, we may be allowed to observe that, generally, in matters of legal procedure, formalities are only a source of invalidity, in so far as the law has formally declared them to be so, or when the irregularity in question attacks a general legal principle recognized in the country. Now, in the first place, the Treaty contains nothing upon the consequences entailed by the non-observance of the diplomatic channel; and, in the second place, this same non-observance is sanctioned by England towards the United States, in a general manner towards Italy for Malta, and, lastly, towards France herself, in the relations between the French and English Colonies.

The Government of the Queen alleges, in the second place, that the acts imputed to Lamirande would not constitute the crime of "*faux*," or forgery, as contemplated by the Treaty, inasmuch as there is no forgery according to the law of England.

We have no intention of affirming *a priori* that the forgeries committed by Lamirande are foreseen and punished by English legislation; but we are justified in taking into our consideration that the Government of the Queen brings to the support of its position no reference nor any official opinion originated by or emanating from a judicial authority, whilst, on the contrary, in our opinion the decision of Judge Bréhaut is a settled fact, creating a grave and serious presumption in favor of the legitimacy of the extradition.

Moreover, in adhering to the literal meaning of the Treaty of 1843, Lamirande's extradition appears to us perfectly regular.

What, in fact, does the Treaty say? That the extradition shall be carried out on the part of England, "on the report of a Judge or Magistrate duly authorized to take cognizance of the acts charged against the fugitive in the warrant of arrest."

This report has been made by Judge Bréhaut, and it is upon this report that the Governor of Canada has handed over the accused. We were therefore within the term of the Treaty; it is true, that it is argued that there existed an appeal to a superior Judge. But, strictly, according to the letter of the Treaty, we are justified in maintaining that this right of appeal does not exist; and, indeed, if this right does exist, is it requisite for the Government, which claims an accused person from England, to pursue him through all the judicial steps authorized by the forms of English law?

This result, doubtless, is not to be feared when it is a question of a criminal destitute of resources.

But Lamirande is the proof that a thousand ways of procedure are open to him who has found, by his crime itself, the elements of riches necessary to meet his expenses, so that at last by a complete subversion of justice the chances of extradition will some time be in an inverse ratio to the magnitude of the crime.

At all events, to return to the actual case, the antagonistic opinion of Judge Drummond cannot be alleged in opposition to that of Judge Bréhaut, since that opinion, given too late, in the absence of the parties, wanting, moreover in impartiality, if all the reports published on that occasion are to be believed, cannot have the force of a decision by a Court of Appeal.

Having before us the matter adjudged, the opinion of the lawyers who have been called to consider the question could alone determine us on the point of law, the point of fact never having been the subject of adverse examination. It is of greater importance for us to be able to discover whether the falsifications, which in France entail a criminal punishment, and which the Court of Assize of Vienne has chastised by ten years of confinement, does not constitute the crime of forgery according to the English law.

An English Colonial authority thought himself sufficiently justified by the requisition of our Consul General in delivering a warrant to the proper judge. The latter gave a decision which was executed by the same administrative authority before the appearance of any contrary decision of another tribunal, whose tardy proceedings have no legal value.

The person thus given up remained seven days in an English vessel and three more days on English soil, between Liverpool and London, escorted by English agents. Lastly, it is certain that Members of the English Cabinet were questioned by means of telegraphic despatches, and had to answer the objections of the officials who took upon themselves to act for Lamirande.

Such are the antecedents, after which the restitution of the person thus given up is claimed, under the pretext of errors committed by the Governor General of Canada or by the Judge who gave the decision.

There is, moreover, occasion to remark, that Lamirande, who has confessed his theft and forgery, has not even appealed against the sentence inflicted on him. Finally, Lamirande has accepted the trial on the charge of forgery, as appears from a formal declaration on his part, publicly given in the session of the Court of Assize.

You will find annexed a copy of this document. It proves that, according to the statement of his counsel, dated December 3, Lamirande accepted on the 4th, the trial on the charge of forgery, and, even in the case of acquittal, upon that of theft; so that his acquiescence would have obliged us to keep him, had he been acquitted, and to try him on those charges which respect for the Treaties prevented us from submitting to the jury from the opening of the session.

To recapitulate: The omission to make the demand through a diplomatic channel, even were it an invariable rule, could not be urged *post facto* to annul the extradition.

The contrary rule is, moreover, practised in certain cases by Great Britain. If the forgery for which Lamirande has been surrendered is not forgery according to English law, it is a doctrine which remains to be established.

There is, on the contrary, a decision in favor of the regular application of the Treaty, and we cannot argue on the pretended judgment of appeal. Lamirande has accepted, in principle, the jurisdiction of his country before the Court of Assize at Vienne.

The Government of the Emperor has, therefore, reason to hope that the English Cabinet will appreciate these various arguments, and will acknowledge them as justified in principle; for, in fact, Lamirande having formally given up his claim to the benefit of surrender, the question has no longer any but a theoretical interest.

I have the honor to transmit to you, herewith, a certified copy of the letter addressed on February 10th, by Lamirande, to the Procureur Général of Poitiers, as well as his second letter of the 19th to the Keeper of the Seals, and another from his father of the 20th.

(Signed,)

MOUSTIER.

(Inclosure 2 in No. 39.)

(Translation.)

Declaration of M. E. S. Lamirande.

I, the undersigned, Bureau Lamirande (Ernest Charles Constant), declare solemnly that, if the verdict of the jury, who are to decide on the forgery which is imputed to me, and which I protest never having intended to commit, is in the negative, I do not intend in any way to profit by the benefit of the Extradition Treaty with England; that I demand, on the contrary, under this hypothesis, to be judged by the Court of Assize of Vienne, for the acts of embezzlement and of theft which have been brought against me by the decree of the Chamber of Indictment.

I am then ready to constitute myself a prisoner, and I beg my counsel to place this declaration in the hands of M. le Procureur Général.

(Signed,)

E. S. LAMIRANDE.

POITIERS, December 4, 1866.

(Inclosure 3 in No. 39.)

M. E. S. Lamirande to M. Damay.

(Translation.)

FONTEVRAULT, February 10, 1867.

M. LE PROCUREUR GENERAL,—I have just learned that the English Government have addressed a demand to the French Government for the surrender of my person. Being desirous of avoiding the continuance of a publicity, painful to my family, and quite decided to expiate my crime, by submitting to the penalty which has been inflicted on me by the justice of my country, I declare that I formally renounce, from to-day, benefit from that surrender, if it should take place.

I now beg you to have the goodness to transmit the present declaration to His Excellency the Keeper of the Seals.

(Signed,)

E. S. LAMIRANDE.

(Inclosure 4 in No. 39.)

M. E. S. Lamirande to the Keeper of the Seals, Minister of Justice.

(Translation.)

FONTEVRAULT, February 19, 1867.

M. LE MINISTRE,—I have the honor to inform you that I renounce, beforehand, and in the most formal manner, the liberty which the demand, framed by the English Government for the surrender of my person, if it were successful, might restore to me.

The motives of my renunciation are the interest in my family, for whom I wish to avoid the continuance of a publicity very painful to them, and the sincere and complete repentance by which I wish to try and expiate my crime.

This determination on my part is perfectly free and deliberate.

It is, then, by my own deed, independently of any influence, that I declare my submission to the decisions of French justice, and acceptance, without reserve and without *arrière pensée*, of all its consequences.

(Signed,)

E. S. LAMIRANDE.

(Inclosure 5 in No. 39.)

MM. C. G. and C. S. Lamirande to the Keeper of the Seals, Minister of Justice.

(Translation.)

CHATELLERAULT, February 20, 1867.

M. LE MINISTRE,—I have the honor to address to you the enclosed letter from my son, Ernest Lamirande, by which he gives up, in anticipation, all claim to the benefits of the demand by the English Government for the surrender of his person.

If anything could repair the harm which this unhappy son has done to me as well as to my family, it would be his repentance.

Therefore we regard with satisfaction this determination, which I hasten to transmit to your Excellency.

It will have a result to which we attach great value—that of putting a stop at least to the reports which have been circulated in connection with our name.

In addition, it indicates a return to proper feeling, since it possesses the merit of being spontaneous, and of being inspired by interest in his family and by a sincere desire for expiation.

I venture to hope, M. le Ministre, that the repentance of which my unhappy son now gives a proof will create for him, at some future time, a claim on the indulgence of His Majesty the Emperor.

My youngest son, who signs this letter with me, shares all the sentiments which are expressed therein.

(Signed,) C. G. LAMIRANDE, *ex-Magistrate*.
" C. S. LAMIRANDE.

(No. 40.)

Lord Stanley to Earl Cowley.

FOREIGN OFFICE, March 20, 1867.

MY LORD,—Mr. Fane transmitted to me in his despatch of the 25th of February, two letters from M. Lamirande and from his family, withdrawing the application that the former had made, in his letter of the 11th of September last, for the interference of Her Majesty's Government to obtain his release as having been unduly given up to the French Government, under the Extradition Treaty of the 13th of February, 1843.

Mr. Fane further transmitted to me, in his despatch of the 3rd instant, the answer of the French Government to the application, which, by my instruction of the 12th of January last, he was instructed to make for the surrender of M. Lamirande.

Whatever exception Her Majesty's Government might, under other circumstances, have felt disposed to take to the statements made by M. de Moustier in this answer, with the view of controverting the grounds on which they rested their application, the request now made by M. Lamirande himself, and by his family, that the application should be withdrawn, would render it a matter of great difficulty on the part of Her Majesty's Government to pursue a controversy on the subject with the Government of the Emperor, since the person on whose behalf the controversy was commenced urgently entreats that it should be abandoned.

At the same time, however, Her Majesty's Government must guard themselves from appearing to acquiesce in the doctrine and principles on which the French Government justify their refusal to set M. Lamirande at liberty; and I have accordingly to instruct your Excellency, in acquainting M. de Moustier that Her Majesty's Government no longer insist upon their application for his release, to add, that their abstaining from doing so must not be construed into an admission on their part that there were not sufficient grounds for insisting upon it.

I am, &c.,

(Signed,) STANLEY.

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